

### **35A-8-101. Definitions.**

As used in this chapter:

- (1) "Accessible housing" means housing which has been constructed or modified to be accessible, as described in the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.
- (2) "Director" means the director of the division.
- (3) "Division" means the Housing and Community Development Division.

Renumbered and Amended by Chapter 212, 2012 General Session

### **35A-8-201. Housing and Community Development Division.**

The Housing and Community Development Division is under the administration and general supervision of the director.

Renumbered and Amended by Chapter 212, 2012 General Session

### **35A-8-202. Powers and duties of division.**

- (1) The division shall:
  - (a) assist local governments and citizens in the planning, development, and maintenance of necessary public infrastructure and services;
  - (b) cooperate with, and provide technical assistance to, counties, cities, towns, regional planning commissions, area-wide clearinghouses, zoning commissions, parks or recreation boards, community development groups, community action agencies, and other agencies created for the purpose of aiding and encouraging an orderly, productive, and coordinated development of the state and its political subdivisions;
  - (c) assist the governor in coordinating the activities of state agencies which have an impact on the solution of community development problems and the implementation of community plans;
  - (d) serve as a clearinghouse for information, data, and other materials which may be helpful to local governments in discharging their responsibilities and provide information on available federal and state financial and technical assistance;
  - (e) carry out continuing studies and analyses of the problems faced by communities within the state and develop such recommendations for administrative or legislative action as appear necessary;
  - (f) assist in funding affordable housing and addressing problems of homelessness;
  - (g) support economic development activities through grants, loans, and direct programs financial assistance;
  - (h) certify project funding at the local level in conformance with federal, state, and other requirements;
  - (i) utilize the capabilities and facilities of public and private universities and colleges within the state in carrying out its functions; and
  - (j) assist and support local governments, community action agencies, and citizens in the planning, development, and maintenance of home weatherization, energy efficiency, and antipoverty activities.
- (2) The division may:

(a) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) if any federal program requires the expenditure of state funds as a condition to participation by the state in any fund, property, or service, with the governor's approval, expend whatever funds are necessary out of the money provided by the Legislature for the use of the department;

(c) in accordance with Part 9, Domestic Violence Shelters, assist in developing, constructing, and improving shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities; and

(d) assist, when requested by a county or municipality, in the development of accessible housing.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-301. Legislative intent -- Purpose and policy.**

(1) It is the intent of the Legislature to make available funds received by the state from federal mineral lease revenues under Section 59-21-2, bonus payments on federal oil shale lease tracts U-A and U-B, and all other bonus payments on federal mineral leases to be used for the alleviation of social, economic, and public finance impacts resulting from the development of natural resources in this state, subject to the limitations provided for in Section 35 of the Mineral Leasing Act of 1920 (41 Stat. 450, 30 U.S.C. Sec. 191).

(2) The purpose of this part is to maximize the long term benefit of funds derived from these lease revenues and bonus payments by fostering funding mechanisms which will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of this state, with priority given to those communities designated as impacted by the development of natural resources covered by the Mineral Leasing Act.

(3) The policy of this state is to promote cooperation and coordination between the state and its agencies and political subdivisions with individuals, firms, and business organizations engaged in the development of the natural resources of this state. The purpose of such efforts include private sector participation, financial and otherwise, in the alleviation of impacts associated with resources development activities.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-302. Definitions.**

As used in this part:

(1) "Bonus payments" means that portion of the bonus payments received by the United States government under the Leasing Act paid to the state under Section 35 of the Leasing Act, 30 U.S.C. Sec. 191, together with any interest that had accrued on those payments.

(2) "Impact board" means the Permanent Community Impact Fund Board created under Section 35A-8-304.

(3) "Impact fund" means the Permanent Community Impact Fund established by

this chapter.

(4) "Interlocal Agency" means a legal or administrative entity created by a subdivision or combination of subdivisions under the authority of Title 11, Chapter 13, Interlocal Cooperation Act.

(5) "Leasing Act" means the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 181 et seq.

(6) "Qualifying sales and use tax distribution reduction" means that, for the calendar year beginning on January 1, 2008, the total sales and use tax distributions a city received under Section 59-12-205 were reduced by at least 15% from the total sales and use tax distributions the city received under Section 59-12-205 for the calendar year beginning on January 1, 2007.

(7) "Subdivision" means a county, city, town, county service area, special service district, special improvement district, water conservancy district, water improvement district, sewer improvement district, housing authority, building authority, school district, or public postsecondary institution organized under the laws of this state.

Amended by Chapter 9, 2012 General Session

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-303. Impact fund -- Deposits and contents -- Use of fund money.**

(1) There is created an enterprise fund entitled the "Permanent Community Impact Fund."

(2) The fund consists of:

- (a) all amounts appropriated to the impact fund under Section 59-21-2;
- (b) bonus payments deposited to the impact fund under Subsection 59-21-1(2);
- (c) all amounts appropriated to the impact fund under Section 53C-3-203;
- (d) all amounts received for the repayment of loans made by the impact board under this chapter; and
- (e) all other money appropriated or otherwise made available to the impact fund by the Legislature.

(3) The state treasurer shall:

- (a) invest the money in the impact fund by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
- (b) deposit all interest or other earnings derived from those investments into the impact fund.

(4) The amounts in the impact fund available for loans, grants, administrative costs, or other purposes of this part shall be limited to that which the Legislature appropriates for these purposes.

(5) Federal mineral lease revenue received by the state under the Leasing Act that is deposited into the impact fund shall be used:

- (a) in a manner consistent with the provisions of:
  - (i) the Leasing Act; and
  - (ii) this part; and
- (b) for loans, grants, or both to state agencies or subdivisions that are socially or economically impacted by the leasing of minerals under the Leasing Act.

(6) The money described in Subsection (2)(c) shall be used for grants to political

subdivisions of the state to mitigate the impacts resulting from the development or use of school and institutional trust lands.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-304. Permanent Community Impact Fund Board created -- Members -- Terms -- Chair -- Expenses.**

(1) There is created within the department the Permanent Community Impact Fund Board composed of 11 members as follows:

- (a) the chair of the Board of Water Resources or the chair's designee;
- (b) the chair of the Water Quality Board or the chair's designee;
- (c) the director of the department or the director's designee;
- (d) the state treasurer;
- (e) the chair of the Transportation Commission or the chair's designee;
- (f) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;
- (g) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;
- (h) a locally elected official who resides in Duchesne, Daggett, or Uintah County;
- (i) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County; and
- (j) a locally elected official from each of the two counties that produced the most mineral lease money during the previous four-year period, prior to the term of appointment, as determined by the department.

(2) (a) The members specified under Subsections (1)(f) through (j) may not reside in the same county and shall be:

(i) nominated by the Board of Directors of the Southeastern Association of Governments, Central Utah Association of Governments, Uintah Basin Association of Governments, and Southwestern Association of Governments, respectively, except that a member under Subsection (1)(j) shall be nominated by the Board of Directors of the Association of Governments from the region of the state in which the county is located; and

(ii) appointed by the governor with the consent of the Senate.

(b) Except as required by Subsection (2)(c), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) The terms of office for the members of the impact board specified under Subsections (1)(a) through (1)(e) shall run concurrently with the terms of office for the councils, boards, committees, commission, departments, or offices from which the members come.

- (4) The executive director of the department, or the executive director's designee, is the chair of the impact board.
- (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-305. Duties -- Loans -- Interest.**

- (1) The impact board shall:
  - (a) make grants and loans from the amounts appropriated by the Legislature out of the impact fund to state agencies, subdivisions, and interlocal agencies that are or may be socially or economically impacted, directly or indirectly, by mineral resource development for:
    - (i) planning;
    - (ii) construction and maintenance of public facilities; and
    - (iii) provision of public services;
  - (b) establish the criteria by which the loans and grants will be made;
  - (c) determine the order in which projects will be funded;
  - (d) in conjunction with other agencies of the state, subdivisions, or interlocal agencies, conduct studies, investigations, and research into the effects of proposed mineral resource development projects upon local communities;
  - (e) sue and be sued in accordance with applicable law;
  - (f) qualify for, accept, and administer grants, gifts, loans, or other funds from:
    - (i) the federal government; and
    - (ii) other sources, public or private; and
  - (g) perform other duties assigned to it under Sections 11-13-306 and 11-13-307.
- (2) Money, including all loan repayments and interest, in the impact fund derived from bonus payments may be used for any of the purposes set forth in Subsection (1)(a) but may only be given in the form of loans to be paid back into the impact fund by the agency, subdivision, or interlocal agency.
- (3) The average annual return to the impact fund on all bonus money may not be less than 1/2 of the average interest rate paid by the state on general obligation bonds issued during the most recent fiscal year in which bonds were sold.
- (4) (a) "Provision of public services" under Subsection (1)(a) includes contracts with public postsecondary institutions to fund research, education, or public service programs that benefit impacted counties or political subdivisions of the counties.
  - (b) Each contract under Subsection (4)(a) shall be:
    - (i) based on an application to the impact board from the impacted county; and
    - (ii) approved by the county legislative body.
  - (c) For purposes of this section, a land use plan is a public service program.

Amended by Chapter 9, 2012 General Session

Renumbered and Amended by Chapter 212, 2012 General Session  
Amended by Chapter 212, 2012 General Session, (Coordination Clause)

**35A-8-306. Powers.**

The impact board may:

- (1) appoint, where it considers this appropriate, a hearing examiner or administrative law judge with authority to conduct hearings, make determinations, and enter appropriate findings of facts, conclusions of law, and orders under authority of the impact board under Sections 11-13-306 and 11-13-307;
- (2) appoint additional professional and administrative staff necessary to effectuate Sections 11-13-306 and 11-13-307;
- (3) make independent studies regarding matters submitted to it under Sections 11-13-306 and 11-13-307 that the impact board, in its discretion, considers necessary, which studies shall be made a part of the record and may be considered in the impact board's determination; and
- (4) make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act it considers necessary to perform its responsibilities under Sections 11-13-306 and 11-13-307.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-307. Impact fund administered by impact board -- Eligibility for assistance -- Review by board -- Administration costs -- Annual report.**

- (1) (a) The impact board shall:
  - (i) administer the impact fund in a manner that will keep a portion of the impact fund revolving;
  - (ii) determine provisions for repayment of loans;
  - (iii) establish criteria for determining eligibility for assistance under this part; and
  - (iv) consider recommendations from the School and Institutional Trust Lands Administration when awarding a grant described in Subsection 35A-8-303(6).
- (b) (i) The criteria for awarding loans or grants made from funds described in Subsection 35A-8-303(5) shall be consistent with the requirements of Subsection 35A-8-303(5).
- (ii) The criteria for awarding grants made from funds described in Subsection 35A-8-303(2)(c) shall be consistent with the requirements of Subsection 35A-8-303(6).
- (c) In order to receive assistance under this part, subdivisions and interlocal agencies shall submit formal applications containing the information that the impact board requires.
- (2) In determining eligibility for loans and grants under this part, the impact board shall consider the following:
  - (a) the subdivision's or interlocal agency's current mineral lease production;
  - (b) the feasibility of the actual development of a resource that may impact the subdivision or interlocal agency directly or indirectly;
  - (c) current taxes being paid by the subdivision's or interlocal agency's residents;
  - (d) the borrowing capacity of the subdivision or interlocal agency, including:
  - (i) its ability and willingness to sell bonds or other securities in the open market;

and

- (ii) its current and authorized indebtedness;
  - (e) all possible additional sources of state and local revenue, including utility user charges;
  - (f) the availability of federal assistance funds;
  - (g) probable growth of population due to actual or prospective natural resource development in an area;
  - (h) existing public facilities and services;
  - (i) the extent of the expected direct or indirect impact upon public facilities and services of the actual or prospective natural resource development in an area; and
  - (j) the extent of industry participation in an impact alleviation plan, either as specified in Title 63M, Chapter 5, Resource Development Act, or otherwise.
- (3) The impact board may not fund an education project that could otherwise have reasonably been funded by a school district through a program of annual budgeting, capital budgeting, bonded indebtedness, or special assessments.
- (4) The impact board may restructure all or part of the agency's or subdivision's liability to repay loans for extenuating circumstances.
- (5) The impact board shall:
- (a) review the proposed uses of the impact fund for loans or grants before approving them and may condition its approval on whatever assurances the impact board considers necessary to ensure that proceeds of the loan or grant will be used in accordance with the Leasing Act and this part; and
  - (b) ensure that each loan specifies the terms for repayment and is evidenced by general obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate subdivision or interlocal agency issued to the impact board under whatever authority for the issuance of those bonds, notes, or obligations exists at the time of the loan.
- (6) The impact board shall allocate from the impact fund to the department those funds that are appropriated by the Legislature for the administration of the impact fund, but this amount may not exceed 2% of the annual receipts to the impact fund.
- (7) The department shall include in the annual written report described in Section 35A-1-109, the number and type of loans and grants made as well as a list of subdivisions and interlocal agencies that received this assistance.

Amended by Chapter 371, 2014 General Session

**35A-8-401. Definitions.**

As used in this part:

- (1) "Area of operation" means:
  - (a) in the case of an authority of a city, the city, except that the area of operation of an authority of a city does not include an area that lies within the territorial boundaries of some other city; or
  - (b) in the case of an authority of a county, all of the county for which it is created except, that a county authority may not undertake a project within the boundaries of a city unless a resolution has been adopted by the governing body of the city, and by any authority which has been established and authorized to exercise its powers in the city,

declaring that there is need for the county authority to exercise its powers within that city.

(2) "Blighted area" means an area where dwellings predominate that, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities or any combination of these factors, are detrimental to safety, health, and morals.

(3) "Bonds" means bonds, notes, interim certificates, debentures, or other obligations issued by an authority under this part.

(4) "City" means a city or town in the state.

(5) "Clerk" means the city or county clerk, or the officer charged with the duties customarily imposed on the clerk.

(6) "County" means a county in the state.

(7) "Elderly" means a person who meets the age, disability, or other conditions established by regulation of the authority.

(8) "Federal government" includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States.

(9) "Governing body" means, in the case of a city, the council or other body of the city in which is vested legislative authority customarily imposed on the city council, and in the case of a county, the board of county commissioners.

(10) "Housing authority" or "authority" means a public body corporate and politic created by this part.

(11) (a) "Housing project" or "project" means a work or undertaking, on contiguous or noncontiguous sites to:

(i) demolish, clear, or remove buildings from a blighted area;

(ii) provide or assist in providing decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of medium and low income by any suitable methods, including rental, sale of individual units in single or multifamily structures under conventional condominium, cooperative sales contract, lease-purchase agreement, loans, or subsidizing of rentals or charges; or

(iii) accomplish a combination of Subsections (11)(a)(i) and (ii).

(b) "Housing project" includes:

(i) buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances;

(ii) streets, sewers, water service, utilities, parks, site preparation and landscaping;

(iii) facilities for administrative, community, health, recreational, welfare, or other purposes;

(iv) the planning of the buildings and other improvements;

(v) the acquisition of property or any interest in the property;

(vi) the demolition of existing structures;

(vii) the construction, reconstruction, rehabilitation, alteration, or repair of the improvements and all other work in connection with them; and

(viii) all other real and personal property and all tangible or intangible assets held or used in connection with the housing project.

(12) "Major disaster" means a flood, drought, fire, hurricane, earthquake, storm,



or other catastrophe, which in the determination of the governing body is of sufficient severity and magnitude to warrant the use of available resources of the federal, state, and local governments to alleviate the damage, hardship, or suffering caused.

(13) "Mayor" means the mayor of the city or the officer charged with the duties customarily imposed on the mayor or executive head of a city.

(14) "Obligee of an authority" or "obligee" includes a bondholder, agent or trustee for a bondholder, a lessor demising to the authority used in connection with a project, an assignee or assignees of the lessor's interest in whole or in part, and the federal government when it is a party to a contract with the authority.

(15) "Persons of medium and low income" mean persons or families who, as determined by the authority undertaking a project, cannot afford to pay the amounts at which private enterprise, unaided by appropriate assistance, is providing a substantial supply of decent, safe and sanitary housing.

(16) "Person with a disability" means a person with any disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102.

(17) "Public body" means a city, county or municipal corporation, commission, district, authority, agency, subdivision, or other body of the foregoing.

(18) "Real property" includes all lands, improvements, and fixtures on them, property of any nature appurtenant to them or used in connection with them, and every estate, interest, and right, legal or equitable, including terms for years.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-402. Creation of housing authority authorized -- Procedure.**

(1) The governing body of each public body of the state, except the state itself, may create an authority, corporate and politic, to be known as a "housing authority."

(2) The governing body of a city or county shall give consideration to the need for an authority:

(a) on its own motion; or

(b) upon the filing of a petition signed by 25 electors of the city or county asserting that there is need for an authority to function in the city or county and requesting that its governing body make a declaration to that effect.

(3) The governing body shall adopt a resolution declaring there is need for an authority and creating an authority in the city or county if it finds:

(a) that unsanitary or unsafe inhabited dwelling accommodations exist in the city or county; or

(b) that there is a shortage of safe and sanitary dwelling accommodations in the city or county available to persons of medium and low income at rentals or prices they can afford.

(4) (a) In any suit, action, or proceeding involving the validity or enforcement of a contract of the authority, an authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers upon proof of the adoption of the resolution prescribed in Subsection (3).

(b) A copy of the resolution duly certified by the clerk shall be admissible in evidence in a suit, action, or proceeding.

(5) In counties of the third, fourth, fifth, and sixth class, the governing body of

each public body of the state, except the state itself, may contract with or execute an interlocal agreement for services to be provided by an existing housing authority established in another political subdivision.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-403. Indian housing authorities.**

(1) (a) There is created, with respect to each Indian tribe, band, or community in the state, a public body corporate and politic, to function in the operating area of the Indian tribe, band, or community to be known as the "housing authority" of the Indian tribe, band, or community, which is an agency of this state, possessing all powers, rights, and functions specified for city and county authorities created under this part.

(b) This Indian housing authority may not transact business or exercise its powers unless the governing council of the tribe, band, or community, by proper resolution, declares that there is a need for an authority to function for the tribe, band, or community.

(2) (a) Except as otherwise provided in this part, the provisions of law applicable to housing authorities created for cities and counties and the commissioners of these authorities shall be applicable to Indian housing authorities and the commissioners of those authorities.

(b) The chief or other governing head of an Indian tribe, band, or community may exercise all appointing and other powers with respect to an Indian housing authority that are vested by this part in the mayor of a city relating to a city housing authority.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-404. Commissioners -- Appointment -- Terms -- Quorum -- Meetings -- Employment of other officers and employees authorized.**

(1) If a housing authority is authorized to transact business and exercise powers under this part, not less than five nor more than seven people shall be appointed as commissioners of the authority:

(a) in the case of a city, by the mayor, with the advice and consent of the city's governing body; or

(b) in the case of a county, by the county's governing body.

(2) (a) The commissioners first appointed under this part shall serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment.

(b) After the first commissioners are appointed under Subsection (2)(a), commissioners are appointed for a term of office of four years.

(c) Notwithstanding Subsections (2)(a) and (b), all vacancies are filled for the unexpired term.

(3) A commissioner qualifies by taking the official oath of office.

(4) A commissioner may not receive compensation except necessary expenses, including traveling expenses, incurred in the discharge of the commissioner's duties.

(5) A commissioner holds office until the commissioner's successor is appointed and qualified.

- (6) A certificate of appointment or reappointment of a commissioner shall be:
  - (a) filed with the authority; and
  - (b) conclusive evidence of the appointment of the commissioner.
- (7) The powers of each authority are vested in the commissioners.
- (8) (a) A majority of the commissioners of an authority constitutes a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies.
  - (b) The authority may take action upon a vote of a majority of the commissioners present, unless the bylaws of the authority require a larger number.
- (9) Meetings of the commissioners of an authority may be held:
  - (a) anywhere within the area of operation of the authority; or
  - (b) within any area not described in Subsection (9)(a) in which the authority is authorized to undertake a project.
- (10) The commissioners of an authority shall elect a chair and vice chair from the commissioners.
- (11) An authority may employ an executive director, legal and technical experts, and other officers, agents, and employees, permanent and temporary, and shall determine their qualifications, duties, and compensation.
- (12) An authority may delegate to one or more of its agents or employees any powers or duties the authority considers proper.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-405. Disclosure of interest in project -- Restrictions.**

- (1) A commissioner, officer, or employee of an authority, who has voluntarily acquired any of the following interests, shall disclose to the commissioners of the authority, as soon as the person has knowledge of the interest, the nature and extent of the interest:
  - (a) a present or future interest, direct or indirect, in a project;
  - (b) a present or future interest, direct or indirect, in a property included in or planned to be included in a project;
  - (c) a contract or proposed contract relating to a project; or
  - (d) any other transaction or agreement with the authority.
- (2) The commissioners shall enter the particulars of the disclosure into the minutes of the authority.
- (3) After a disclosure of interest, the commissioner, officer, or employee may participate in any discussions concerning proposed authority action on the property, contract, transaction, or agreement in which the person has an interest, but the commissioner, officer, or employee may not vote on any action proposed by the authority regarding that property, contract, transaction, or agreement.
- (4) Commissioners, officers, and employees of an authority are not "public officers" for purposes of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-406. Misconduct of commissioners -- Removal.**

(1) A commissioner of an authority may be removed by the mayor or, in the case of an authority for a county, by the body that appointed the commissioner for inefficiency, neglect of duty, or misconduct in office.

(2) A commissioner may be removed only after a hearing and after having been given a copy of the charges at least 10 days prior to the hearing and having an opportunity to be heard in person or by counsel.

(3) If a commissioner is removed, a record of the proceedings, together with the charges and findings, shall be filed in the office of the clerk.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-407. Powers of housing authority.**

(1) An authority has perpetual succession and all the powers necessary to carry out the purposes of this part.

(2) An authority may:

(a) sue and be sued;

(b) have a seal and alter it;

(c) make and execute contracts and other instruments necessary to the exercise of its powers;

(d) make, amend, and repeal bylaws and rules;

(e) within its area of operation, prepare, carry out, and operate projects and provide for the acquisition, construction, reconstruction, rehabilitation, improvement, extension, alteration or repair of any project;

(f) undertake and carry out studies and analyses of housing needs within its area of operation and ways of meeting those needs, including data with respect to population and family groups and its distribution according to income groups, the amount and quality of available housing, including accessible housing, and its distribution according to rentals and sales prices, employment, wages and other factors affecting the local housing needs and meeting these needs;

(g) (i) make the results of studies and analyses available to the public and the building, housing, and supply industries; and

(ii) engage in research and disseminate information on housing programs;

(h) utilize, contract with, act through, assist, and cooperate or deal with any person, agency, institution, or organization, public or private, for the provision of services, privileges, works, or facilities, or in connection with its projects;

(i) notwithstanding anything to the contrary contained in this part or in any other provision of law:

(i) agree to any conditions attached to federal financial assistance relating to the determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards in the development or administration of projects;

(ii) include in any contract awarded or entered into in connection with a project stipulations requiring that the contractor and all subcontractors comply with requirements as to minimum salaries or wages and maximum hours of labor; and

(iii) comply with any conditions attached to the financial aid of the project;

(j) lease, rent, sell, or lease with the option to purchase any dwellings, lands, buildings, structures, or facilities embraced in a project;

(k) subject to the limitations contained in this part with respect to the rental or charges for dwellings in housing projects, establish and revise the rents or charges for the dwellings;

(l) own, hold, and improve real or personal property;

(m) purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in it;

(n) sell, lease, exchange, transfer, assign, pledge, or dispose of real or personal property or any interest in it;

(o) make loans for the provision of housing for occupancy by persons of medium and low income;

(p) make loans or grants for the development and construction of accessible housing;

(q) insure or provide for the insurance, in stock or mutual companies, of real or personal property or operations of the authority against any risks or hazards;

(r) procure or agree to the procurement of government insurance or guarantees of the payment of any bonds, in whole or in part, issued by the authority, including the power to pay premiums on the insurance;

(s) invest money held in reserves, sinking funds, or any funds not required for immediate disbursement in property or securities in which savings banks may legally invest money subject to their control;

(t) redeem its bonds at the redemption price established or purchase its bonds at less than redemption price, with all bonds that are redeemed or purchased to be canceled;

(u) within its area of operation, determine where blighted areas exist or where there is unsafe, insanitary, or overcrowded housing;

(v) make studies and recommendations relating to the problem of clearing, replanning, and reconstructing blighted areas, and the problem of eliminating unsafe, insanitary, or overcrowded housing and providing dwelling accommodations and maintaining a wholesome living environment for persons of medium and low income, and cooperate with any public body or the private sector in action taken in connection with those problems;

(w) acting through one or more commissioners or other persons designated by the authority, conduct examinations and investigations and hear testimony and take proof under oath at public or private hearings on any matter material for its information;

(x) administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers, and issue commissions for the examination of witnesses outside the state who are unable to appear before the authority or are excused from attendance;

(y) make available to appropriate agencies, including those charged with the duty of abating or requiring the correction of nuisances or like conditions or of demolishing unsafe or insanitary structures within its area of operation, its findings and recommendations with regard to any building or property where conditions exist that are dangerous to the public health, morals, safety, or welfare; and

(z) exercise all or any part or combination of the powers granted under this part.

(3) (a) If there are two or more housing authorities established within a county of the first or second class, then those housing authorities shall create a uniform online application for the housing choice voucher program with links to each of the housing authorities within the county.

(b) As used in Subsection (3)(a), "housing choice voucher program" means the federal government's housing assistance program administered by a housing authority, which enables low-income families, the elderly, and the disabled to secure decent, safe, and sanitary housing in the private market.

(4) No provision of law with respect to the acquisition, operation, or disposition of property by other public bodies is applicable to an authority unless the Legislature specifically states that it is.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-408. Profit from projects prohibited -- Criteria for determining rentals and payments.**

(1) To accomplish the public, governmental, and charitable purposes of this part, the Legislature declares that:

(a) an authority manage and operate the authority's housing projects in an efficient manner to enable each housing project to provide decent, safe, and sanitary dwelling accommodations for persons of medium and low income and fix the rentals or payments for these accommodations for persons of low income at low rates; and

(b) an authority may not be operated as a source of revenue to the city or county.

(2) An authority shall fix the rentals or payments for dwellings in the authority's projects at no higher rates than the authority finds necessary in order to produce revenues that, together with all other available money, revenues, income, and receipts of the authority from whatever sources derived, including federal financial assistance necessary to maintain the low-rent character of the projects, is sufficient to:

(a) pay, as they become due, the principal and interest on the bonds of the authority;

(b) create and maintain reserves required to assure the payment of principal and interest as it becomes due on its bonds;

(c) meet the cost of, and provide for, maintaining and operating the projects, including necessary reserves and the cost of any insurance, and the administrative expenses of the authority; and

(d) make payments in lieu of taxes and, after payment in full of all obligations for which federal annual contributions are pledged, make repayments of federal and local contributions as it determines are consistent with the maintenance of the low-rent character of projects.

(3) Rentals or payments for dwellings shall be established and the projects administered, in so far as possible, to assure that any federal financial assistance required is strictly limited to amounts and periods necessary to maintain the low-rent character of the projects.

(4) Nothing in this section limits the amount an authority may charge for nondwelling facilities.

(5) All income and revenue described in this section shall be used in the operation of the projects to aid in accomplishing the public, governmental, and charitable purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-409. Eligibility requirements for occupants -- Rights of obligee on default of authority.**

(1) An authority shall make rules establishing eligibility requirements consistent with the purposes and objectives of this part for admission to and continued occupancy in its projects.

(2) Nothing contained in this section or in Section 35A-8-408 may be construed to limit the power of an authority, with respect to a housing project, to vest in an obligee the right, in case of a default by the authority, to take possession or cause the appointment of a receiver free from the restrictions imposed by this section or Section 35A-8-408.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-410. Penalties for fraudulently obtaining or continuing to receive housing assistance benefits.**

(1) A person may not knowingly, by misrepresentation, impersonation, or other fraudulent means, make a false statement to housing authority personnel or, after being accepted as a recipient of housing authority benefits, fail to disclose to housing authority personnel any:

- (a) change in household composition;
- (b) employment change;
- (c) change in marital status;
- (d) receipt of any other monetary assistance;
- (e) receipt of in-kind gifts; or
- (f) other material fact or change in circumstances that would affect the determination of that person's eligibility to receive housing assistance benefits, or would affect the amount of benefits for which the person is eligible.

(2) A person may not fail to disclose any of the information described in Subsection (1) for the purpose of obtaining or continuing to receive funds or other housing assistance benefits to which the person is not entitled, or in an amount larger than that to which the person is entitled.

(3) A person who has duties relating to the administration of a housing authority program may not fraudulently misappropriate funds or other assistance with which the person has been entrusted, or of which the person has gained possession by virtue of the person's position.

(4) A person may not knowingly:

- (a) file or falsify a claim, report, or document required by state or federal law, or provider agreement, to obtain or attempt to obtain unauthorized housing assistance benefits under this part; or

- (b) attempt to commit, or aid or abet the commission of, an act prohibited by this

section.

(5) The punishment for violation of a provision of this section by a housing assistance recipient is determined by the cumulative value of the money or other benefits the person received from all instances of fraud committed by the person, and not by each separate instance of fraud.

(6) The punishment for the offenses of this section are:

(a) a second degree felony if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or exceeds \$5,000;

(b) a third degree felony if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or greater than \$1,500 but less than \$5,000;

(c) a class A misdemeanor if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is equal to or greater than \$500 but less than \$1,500; or

(d) a class B misdemeanor if the value of the funds or other benefits received, misappropriated, claimed, or applied for, is less than \$500.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-411. Authorities may join or cooperate.**

(1) Two or more authorities may cooperate with one another or jointly exercise any or all of their powers for the purpose of financing, issuing bonds and other obligations and giving security for them, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects located within the area of operation of any one or more of the authorities.

(2) For this purpose, an authority may by resolution authorize a housing authority joining or cooperating with the authority to act on the authority's behalf.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-412. Preference for elderly and persons with a disability.**

(1) For the purpose of increasing the supply of low-rent housing and related facilities for medium and low-income elderly and medium and low-income persons with a disability, an authority may exercise any of its powers under this part in projects involving dwelling accommodations designed specifically for these persons.

(2) For dwelling units in any projects suitable to the needs of the elderly or persons with a disability, special preference may be extended in admission to those dwelling units to these persons of medium and low income.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-413. Victims of major disaster.**

(1) (a) Notwithstanding the provisions of this or any other law relating to rentals, preferences, or eligibility for admission or occupancy of dwellings in housing projects during the period an authority determines that there is an acute need for housing to assure the availability of dwellings for victims of a major disaster, the authority may



undertake the development and administration of housing projects for the federal government.

(b) Dwellings in any housing project under the jurisdiction of the authority may be made available to victims of a major disaster.

(2) An authority may contract with the federal government or a public body for advance payment or reimbursement for the furnishing of housing to victims of a major disaster, including the furnishing of housing free of charge to needy disaster victims during any period covered by a determination of acute need by the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-414. Property and funds of authority declared public property -- Exemption from taxes -- Alternative agreement with public body.**

(1) The property and funds of an authority are declared to be public property used for essential public, governmental, and charitable purposes.

(2) (a) Subject to Subsections (2)(b) and (c), the property and authority are exempt from all taxes and special assessments of a public body.

(b) This tax exemption does not apply to any portion of a project used for a profit-making enterprise.

(c) In taxing these portions appropriate allowance shall be made for any expenditure by an authority for utilities or other public services it provides to serve the property.

(3) In lieu of taxes on its exempt property an authority may agree to make payments to a public body if the authority finds that making the payments is consistent with the maintenance of the low-rent character of housing projects and the achievement of the purposes of this part.

Amended by Chapter 278, 2013 General Session

**35A-8-415. Projects subject to local building regulations.**

A project of an authority is subject to the planning, zoning, sanitary, and building laws, ordinances, and regulations applicable to the locality in which the project is situated.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-416. Bonds authorized -- Payment -- Security -- Liability -- Purpose -- Exemption from taxes except corporate franchise tax.**

(1) An authority may:

(a) issue bonds for any of its corporate purposes;

(b) issue refunding bonds for the purpose of paying or retiring bonds previously issued by it;

(c) issue bonds on which the principal and interest are payable:

(i) exclusively from the income and revenues of the project financed with the proceeds of the bonds;

(ii) exclusively from the income and revenues of certain designated projects,

whether or not they are financed in whole or in part with the proceeds of the bonds; or  
(iii) from its revenues generally.

(2) Bonds issued by the authority may be additionally secured by a pledge of any loan, grant, or contributions, in whole or in part, from the federal government or other source, or a pledge of any income or revenues of the authority.

(3) The members of an authority and a person executing the bonds are not liable personally on the bonds.

(4) (a) The bonds and other obligations of an authority are not a debt of the city, county, state, or a political subdivision, and do not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.

(b) A bond or other obligation of an authority shall include a statement on the face of the bond or other obligation that explains that the bond or other obligation is not a debt of the city, county, state, or a political subdivision, and does not constitute indebtedness for purposes of any constitutional or statutory debt limitation or restrictions.

(5) The city, county, state, or political subdivision is not liable on the bonds or other obligations.

(6) These bonds or obligations may not be payable out of funds or properties other than those of the authority.

(7) Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest and income, are exempt from all taxes, except the corporate franchise tax.

(8) The provisions of this part exempting from taxation the properties of an authority and its bonds and interests and income on them are part of the contract for the security of bonds and have the force of contract, by virtue of this part and without the necessity of this being restated in the bonds, between the bondholders, including all transferees of the bonds, on the one hand and an authority and the state on the other.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-417. Bonds to be authorized by resolution -- Form -- Sale --  
Negotiability -- Validity presumed.**

(1) Bonds of an authority are authorized by resolution, may be issued in one or more series, and shall as provided by the resolution or its trust indenture:

- (a) bear dates, including maturity dates;
- (b) bear interest rates;
- (c) be in denominations;
- (d) be either coupon or registered;
- (e) carry conversion or registration privileges;
- (f) have rank or priority;
- (g) be executed;
- (h) be payable; and
- (i) be subject to terms of redemption with or without premium.

(2) (a) The bonds may bear interest at a variable interest rate as provided by the resolution.

(b) The resolution may establish a method, formula, or index to determine the

current interest rate on the bonds.

(3) In connection with the bonds, the authority may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for:

- (a) letters of credit;
- (b) standby letters of credit;
- (c) surety bonds;
- (d) reimbursement agreements;
- (e) remarketing agreements;
- (f) indexing agreements;
- (g) tender agent agreements; and
- (h) other agreements with respect to:
  - (i) securing the bonds;
  - (ii) enhancing the marketability and creditworthiness of the bonds;
  - (iii) determining a variable interest rate on the bonds; and
  - (iv) the payment from any legally available source, including proceeds of the bonds, fees, charges, or other amounts coming due from the agreements.

(4) As provided by resolution, the bonds may be sold at a public or private sale at par value, in excess of par value, or below par value.

(5) If a member or an officer of an authority whose signature appears on a bond or coupon ceases to be a member or an officer before the delivery of the bond or coupon, the signature is valid and sufficient for all purposes.

(6) A bond issued under this part is fully negotiable.

(7) In a suit, action, or proceeding involving the validity or enforceability of a bond of an authority or the security for it, a bond reciting in substance that it has been issued by the authority to aid in financing a project is conclusively considered to have been issued for that purpose, and the project is conclusively considered to have been planned, located, and carried out in accordance with this part.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-418. Bonds and other obligations -- Additional powers of authority.**

In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of bonds or obligations, an authority may:

- (1) pledge all or a part of its gross or net rents, fees, or revenues to which its right currently exists or will accrue;
- (2) mortgage all or a part of its real or personal property owned or acquired;
- (3) covenant against pledging all or a part of its rents, fees, and revenues, or against mortgaging all or a part of its real or personal property to which its right or title then exists or will accrue, or against permitting or suffering any lien on the revenues or property;
- (4) covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any housing project and covenant as to what other, or additional debts or obligations may be incurred by it;
- (5) covenant as to bonds to be issued and as to the issuance of bonds in escrow or otherwise, and as to the use and disposition of the bond proceeds;
- (6) provide for the replacement of lost, destroyed, or mutilated bonds;

(7) covenant against extending the time for the payment of its bonds or interest on them;

(8) covenant for the redemption of the bonds and provide the terms and conditions for them;

(9) covenant, subject to the limitations contained in this part as to the rents and fees to be charged in the operation of a housing project, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition of the revenues;

(10) authorize the creation of special funds for money held for construction or operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the money held in those funds;

(11) prescribe the procedure by which the terms of a contract with bondholders may be amended or abrogated, the proportion of outstanding bonds which must consent to the action, and the manner in which consent shall be given;

(12) covenant as to the use, maintenance, and replacement of any or all of its real or personal property, the insurance to be carried on it, and the use and disposition of insurance money;

(13) covenant as to the rights, liabilities, powers, and duties arising upon breach by it of a covenant, condition, or obligation;

(14) covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived;

(15) vest in an obligee of the authority, or a specified proportion of them, the right to enforce the payment of bonds or any covenants securing or relating to the bonds;

(16) vest an obligee with the right after default by the authority to take possession of and use, operate, and manage any project or any part of it or any funds connected with them, collect the rents and revenues arising from them, and dispose of them in accordance with the agreement with the authority;

(17) provide the powers and duties of an obligee and limit the obligee's liabilities;

(18) provide the terms and conditions upon which an obligee may enforce any covenant or rights securing or relating to the bonds;

(19) exercise all or any part or combination of the powers granted and make any covenants in addition to the covenants expressly authorized in this section;

(20) do any acts necessary, convenient, or desirable to secure its bonds; and

(21) make any covenants or do any acts calculated to make the bonds more marketable.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-419. Issuance of bonds -- Other laws not to apply.**

(1) This part constitutes full authority for the authorization and issuance of bonds.

(2) No other law for the authorization or issuance of obligations or the deposit of their proceeds that requires a bond election or in any way impedes or restricts the

carrying out of the acts authorized to be done shall be construed as applying to any proceedings taken or acts done under this part.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-420. Rights of obligees of authority.**

An obligee of an authority, in addition to all other rights conferred on the obligee subject to any contractual restrictions binding upon the obligee, may:

- (1) compel an authority, its officers, agents, or employees to perform each term, provision, and covenant contained in a contract of the authority for the benefit of the obligee and to require the carrying out of all covenants and agreements of the authority and the fulfillment of all duties imposed upon it by this part; and
- (2) enjoin any acts or things that may be unlawful, or the violation of any of the rights of an obligee of the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-421. Obligees -- Additional rights conferred by authority.**

(1) An authority may by resolution, trust indenture, mortgage, lease, or other contract, confer upon an obligee the right, in addition to all rights that may otherwise be conferred, upon default as defined in a resolution or instrument, by suit, action, or proceeding in a court of competent jurisdiction to:

- (a) cause possession of a project, in whole or in part, to be surrendered to the obligee;
  - (b) obtain the appointment of a receiver of a project, in whole or in part, and of the rents and profits from the project; and
  - (c) require the authority and its officers, agents, and employees to account as if they were the trustees of an express trust.
- (2) The receiver:
- (a) may enter and take possession of the project or any part of it;
  - (b) may operate and maintain the project;
  - (c) may collect and receive all fees, rents, revenues, or other charges arising from the project;
  - (d) shall keep the money collected from the project in a separate account; and
  - (e) shall use the money in accordance with the obligations of the authority as the court directs.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-422. Property of authority exempt from levy and sale -- Obligees excepted -- Waiver.**

- (1) (a) Property, including money, acquired or held by an authority under this part shall be exempt from levy and sale by virtue of an execution.
- (b) An execution or other judicial process may not issue against the property.
- (c) A judgment against the authority is not a charge or lien upon the property.
- (2) This section does not apply to or limit the right of an obligee to pursue a

remedy for the enforcement of a pledge or lien given by the authority on its rents, fees, or revenues or the right of the federal government to pursue a remedy conferred upon it under this part.

(3) An authority may waive its exemption with respect to claims against a profit-making enterprise occupying a portion of a project if that waiver does not affect or impair the rights of any obligee of the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-423. Financial assistance from federal government permitted.**

(1) In addition to the powers conferred upon an authority by other provisions of this part, an authority may:

(a) borrow money or accept contributions, grants, or other financial assistance from the federal government in aid of a project or related activity concerning health, welfare, economic, educational, environmental, or related issues faced by persons of medium and low income;

(b) take over, lease, or manage a project or undertaking constructed or owned by the federal government; and

(c) comply with conditions and enter into contracts, covenants, mortgages, trust indentures, leases, or agreements considered necessary, convenient, or desirable to accomplish the purposes of Subsections (1)(a) and (b).

(2) (a) The purpose and intent of this part is to authorize an authority to do everything necessary or desirable to secure the financial aid or cooperation of the federal government in the provision of decent, safe, and sanitary dwellings and maintaining a wholesome living environment for persons of medium and low income.

(b) To accomplish the purpose of Subsection (2)(a) an authority may include in a contract for financial assistance with the federal government the provisions that the federal government may require as conditions to the federal government's financial aid unless those provisions are inconsistent with the purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-424. Defaults -- Conveyance of title to federal government.**

(1) In a contract with the federal government for annual contributions, the authority may obligate itself to convey to the federal government possession of or title to the project upon the occurrence of a substantial default, as defined in the contract, with respect to the covenants and conditions to which the authority is subject.

(2) This obligation is specifically enforceable and does not constitute a mortgage, notwithstanding any other laws.

(3) In case of conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the project and funds in accordance with the terms of the contract if the contract by its terms requires the federal government, as soon as practicable after it is satisfied that all defaults have been cured and that the project will be operated in accordance with the contract, to reconvey the project to the authority.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-425. Powers of public body aiding in project.**

(1) For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of projects located within its jurisdiction, a public body may, with or without consideration:

(a) dedicate, sell, convey, or lease any of its interest in property, or grant easements, licenses, or other rights or privileges to a housing authority or the federal government;

(b) cause parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or other works that it is otherwise empowered to undertake to be furnished adjacent to or in connection with these projects;

(c) furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks, or other places that it is otherwise empowered to undertake;

(d) plan or replan, zone or rezone any parts of the public body, make exceptions from building regulations and ordinances, and make changes in its map;

(e) cause the same services to be furnished to a housing authority that the public body may furnish, and provide facilities and services, including feeding facilities and services for tenants, in connection with housing projects;

(f) enter into agreements with respect to the exercise by the public body of its powers relating to the repair, improvement, condemnation, closing, or demolition of unsafe, insanitary, or unfit buildings;

(g) notwithstanding the provisions of any other law, use any money belonging to or within the control of the public body, including money derived from the sale or furnishing of property or facilities to a housing authority, in the purchase of the bonds or other obligations of a housing authority and exercise any related rights;

(h) do any and all things necessary or convenient to aid and cooperate in the planning, undertaking, construction, or operation of any projects;

(i) incur the entire expense of public improvements made by a public body in exercising the powers granted in this part; and

(j) enter into agreements, that may extend over any period notwithstanding any provision or rule of law to the contrary, with a housing authority respecting action to be taken by a public body under any of the powers granted by this part.

(2) If title to or possession of a project is held by a public governmental agency authorized by law to engage in the development or administration of low-rent housing or slum clearance projects, including an agency or instrumentality of the United States, the provisions of the agreements entered into under Subsection (1)(j) inure to the benefit of and may be enforced by that public body or governmental agency.

(3) A sale, conveyance, lease, or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement, or public bidding, notwithstanding any other laws to the contrary.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-426. Agreement by public body to accept payment from authority in**

**lieu of taxes.**

In connection with a project of a housing authority located wholly or partly within the area in which a public body is authorized to act, the public body may agree with the housing authority with respect to the payment by the authority of sums in lieu of taxes for any year or period of years that are determined by the authority to be consistent with the maintenance of the low-rent character of housing projects or the achievement of the purposes of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-427. Public body may provide financial aid.**

In addition to other aids provided, a public body may provide financial aid to a housing authority by:

- (1) loan, donation, grant, contribution, and appropriation of money;
- (2) abatement or remission of taxes;
- (3) payments in lieu of taxes;
- (4) other charges; or
- (5) other means.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-428. Investment in authority authorized.**

(1) The state, public officers, political subdivisions, public bodies, banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, other persons carrying on a banking or insurance business, executors, administrators, guardians, trustees, and other fiduciaries may legally invest money or funds belonging to them or within their control in any bonds or other obligations issued by a housing authority created under this part or issued by a public housing authority or agency in the United States, a United States Territory, the District of Columbia, Puerto Rico, Guam, or the Virgin Islands.

(2) These bonds or other obligations shall be secured by a pledge of annual contributions or other financial assistance to be paid by the United States government or any of its agencies, or by an agreement between the United States government or any of its agencies and the public housing authority or agency in which the United States government or its agency agrees to lend to the public housing authority or agency, prior to the maturity of the bonds or other obligations, money in an amount which, together with any other money irrevocably committed to the payment of interest on the bonds or other obligations, will suffice to pay the principal of the bonds or other obligations with interest to maturity.

(3) The money, under the terms of the agreement, is required to be used for this purpose, and the bonds and other obligations are authorized security for all public deposits and are fully negotiable in this state.

(4) Nothing contained in this section relieves a person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

(5) The provisions of this section apply notwithstanding any restrictions on



investments contained in other laws.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-429. Annual report -- Budget -- Minutes.**

(1) At least once a year, an authority shall file with the clerk, with a copy given to the governing body, a report containing:

- (a) its activities for the preceding year;
- (b) its approved annual budget; and
- (c) recommendations for legislation or other action considered necessary to carry out the purposes of this part.

(2) An authority shall post electronically for public review its:

- (a) annual approved budget; and
- (b) minutes of all open meetings held by its board of commissioners.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-430. Provisions controlling -- Acts of governmental bodies deemed administrative.**

(1) The provisions of this part are controlling, notwithstanding anything to the contrary in any other law of this state, city charter, or local ordinance.

(2) An action of a city, county, or governing body in carrying out the purposes of this part, whether by resolution, ordinance, or otherwise, is considered administrative in character, and no public notice or publication is required with respect to that action.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-501. Definitions.**

As used in this part:

- (1) "Board" means the Housing Board created by this part.
- (2) "Fund" means the Olene Walker Housing Loan Fund created by this part.
- (3) "Rural" means a county in the state other than Utah, Salt Lake, Davis, or Weber.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-502. Creation and administration.**

(1) (a) There is created an enterprise fund known as the Olene Walker Housing Loan Fund, administered by the executive director or the executive director's designee.

(b) The department is the administrator of the fund.

(2) There shall be deposited into the fund:

(a) grants, paybacks, bonuses, entitlements, and other money received by the department from the federal government to preserve, rehabilitate, build, restore, or renew housing or for other activities authorized by the fund;

(b) transfers, grants, gifts, bequests, and money made available from any source to implement this part; and

- (c) money appropriated to the fund by the Legislature.
- (3) The money in the fund shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited in the fund.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-503. Housing loan fund board -- Duties -- Expenses.**

- (1) There is created the Olene Walker Housing Loan Fund Board.
- (2) The board is composed of 11 voting members.
  - (a) The governor shall appoint the following members to four-year terms:
    - (i) two members from local governments;
    - (ii) two members from the mortgage lending community;
    - (iii) one member from real estate sales interests;
    - (iv) one member from home builders interests;
    - (v) one member from rental housing interests;
    - (vi) one member from housing advocacy interests;
    - (vii) one member of the manufactured housing interest; and
    - (viii) two members of the general public.
  - (b) The director or the director's designee serves as the secretary of the board.
  - (c) The members of the board shall annually elect a chair from among the voting membership of the board.
- (3) (a) Notwithstanding the requirements of Subsection (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
  - (b) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.
- (4) (a) The board shall:
  - (i) meet regularly, at least quarterly, on dates fixed by the board;
  - (ii) keep minutes of its meetings; and
  - (iii) comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act.
- (b) Seven members of the board constitute a quorum, and the governor, the chair, or a majority of the board may call a meeting of the board.
- (5) The board shall:
  - (a) review the housing needs in the state;
  - (b) determine the relevant operational aspects of any grant, loan, or revenue collection program established under the authority of this chapter;
  - (c) determine the means to implement the policies and goals of this chapter;
  - (d) select specific projects to receive grant or loan money; and
  - (e) determine how fund money shall be allocated and distributed.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;

- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-504. Distribution of fund money.**

- (1) The executive director shall:
  - (a) make grants and loans from the fund for any of the activities authorized by Section 35A-8-505, as directed by the board;
  - (b) establish the criteria with the approval of the board by which loans and grants will be made; and
  - (c) determine with the approval of the board the order in which projects will be funded.
- (2) The executive director shall distribute, as directed by the board, any federal money contained in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.
- (3) (a) The executive director shall distribute, as directed by the board, any funds received under Section 17C-1-412 to pay the costs of providing income targeted housing within the community that created the community development and renewal agency under Title 17C, Limited Purpose Local Government Entities - Community Development and Renewal Agencies Act.
  - (b) As used in Subsection (3)(a):
    - (i) "Community" has the meaning as defined in Section 17C-1-102.
    - (ii) "Income targeted housing" has the meaning as defined in Section 17C-1-102.
- (4) Except for federal money and money received under Section 17C-1-412, the executive director shall distribute, as directed by the board, money from the fund according to the following requirements:
  - (a) Not less than 30% of all fund money shall be distributed to rural areas of the state.
  - (b) At least 50% of the money in the fund shall be distributed as loans to be repaid to the fund by the entity receiving them.
    - (i) (A) Of the fund money distributed as loans, at least 50% shall be distributed to benefit persons whose annual income is at or below 50% of the median family income for the state.
    - (B) The remaining loan money shall be distributed to benefit persons whose annual income is at or below 80% of the median family income for the state.
  - (ii) The executive director or the executive director's designee shall lend money in accordance with this Subsection (4) at a rate based upon the borrower's ability to pay.
  - (c) Any fund money not distributed as loans shall be distributed as grants.
    - (i) At least 90% of the fund money distributed as grants shall be distributed to benefit persons whose annual income is at or below 50% of the median family income for the state.
    - (ii) The remaining fund money distributed as grants may be used by the

executive director to obtain federal matching funds or for other uses consistent with the intent of this part, including the payment of reasonable loan servicing costs, but no more than 3% of the revenues of the fund may be used to offset other department or board administrative expenses.

(5) The executive director may with the approval of the board:

(a) enact rules to establish procedures for the grant and loan process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Renumbered and Amended by Chapter 212, 2012 General Session  
Amended by Chapter 347, 2012 General Session

**35A-8-505. Activities authorized to receive fund money -- Powers of the executive director.**

At the direction of the board, the executive director may:

(1) provide fund money to any of the following activities:

(a) acquisition, rehabilitation, or new construction of low-income housing units;

(b) matching funds for social services projects directly related to providing housing for special-need renters in assisted projects;

(c) the development and construction of accessible housing designed for low-income persons;

(d) shelters and transitional housing for the homeless; and

(e) other activities that will assist in improving the availability or quality of housing in the state for low-income persons;

(2) do any act necessary or convenient to the exercise of the powers granted by this part or reasonably implied from those granted powers, including:

(a) making or executing contracts and other instruments necessary or convenient for the performance of the executive director and board's duties and the exercise of the executive director and board's powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(b) procuring insurance against a loss in connection with property or other assets held by the fund, including mortgage loans, in amounts and from insurers it considers desirable;

(c) entering into agreements with a department, agency, or instrumentality of the United States or this state and with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, purchase, construction, reconstruction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of residential housing undertaken with the assistance of the department under this part;

(d) proceeding with a foreclosure action, to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, encumber, sell, or otherwise dispose of real or personal property obtained by the fund due to the default on a mortgage loan held by the fund in preparation for disposition of the property, taking assignments of leases and rentals, proceeding with foreclosure actions, and taking

other actions necessary or incidental to the performance of its duties; and

(e) selling, at a public or private sale, with public bidding, a mortgage or other obligation held by the fund.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-506. Entities authorized to receive fund money.**

(1) The executive director, with the approval of the board, may grant or lend fund money to housing sponsors.

(2) "Housing sponsor" includes a person who constructs, develops, rehabilitates, purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at least in part, residential housing to low and moderate income persons.

(3) A housing sponsor includes:

- (a) a local public body;
- (b) a nonprofit, limited profit, or for profit corporation;
- (c) a limited partnership;
- (d) a limited liability company;
- (e) a joint venture;
- (f) a subsidiary of the Utah Housing Corporation or any subsidiary of the subsidiary of the Utah Housing Corporation;
- (g) a cooperative;
- (h) a mutual housing organization;
- (i) a local government;
- (j) a local housing authority;
- (k) a regional or statewide nonprofit housing or assistance organization; or
- (l) any other type of entity or arrangement that helps provide affordable housing for low and moderate income persons.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-507. Application process and priorities.**

(1) (a) In each calendar year that money is available from the fund for distribution by the executive director under the direction of the board, the executive director shall, at least once in that year, announce a grant and loan application period by sending notice to interested persons.

(b) The executive director shall accept applications that are received in a timely manner.

(2) The executive director shall give first priority to applications for projects and activities that use existing privately owned housing stock, including privately owned housing stock purchased by nonprofit public development authorities.

(3) The executive director shall give preference to applications that demonstrate the following:

- (a) a high degree of leverage with other sources of financing;
- (b) high recipient contributions to total project costs, including allied contributions from other sources such as professional, craft, and trade services and

lender interest rate subsidies;

(c) high local government project contributions in the form of infrastructure improvements, or other assistance;

(d) projects that encourage ownership, management, and other project-related responsibility opportunities;

(e) projects that demonstrate a strong probability of serving the original target group or income level for a period of at least 15 years;

(f) projects where the applicant has demonstrated the ability, stability, and resources to complete the project;

(g) projects that appear to serve the greatest need;

(h) projects that provide housing for persons and families with the lowest income;

(i) projects that promote economic development benefits;

(j) projects that allow integration into a local government housing plan; and

(k) projects that would mitigate or correct existing health, safety, or welfare problems.

(4) The executive director may give consideration to projects that increase the supply of accessible housing.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-508. Annual accounting.**

(1) The executive director shall monitor the activities of recipients of grants and loans issued under this part on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the executive director with the approval of the board or by this part.

(2) An entity that receives a grant or loan under this part shall provide the executive director with an annual accounting of how the money the entity received from the fund has been spent.

(3) The executive director shall make an annual report to the board accounting for the expenditures authorized by the board.

(4) The board shall submit a report to the department for inclusion in the annual written report described in Section 35A-1-109:

(a) accounting for expenditures authorized by the board; and

(b) evaluating the effectiveness of the program.

Amended by Chapter 371, 2014 General Session

**35A-8-601. Creation.**

(1) There is created the Homeless Coordinating Committee.

(2) (a) The committee shall consist of:

(i) the lieutenant governor or the lieutenant governor's designee;

(ii) the state planning coordinator or the coordinator's designee;

(iii) the state superintendent of public instruction or the superintendent's designee;

(iv) the chair of the board of trustees of the Utah Housing Corporation or the

chair's designee; and

(v) the executive directors of the Department of Human Services, the Department of Corrections, the Department of Workforce Services, and the Department of Health, or their designees.

(b) (i) The lieutenant governor shall serve as the chair of the committee.

(ii) The lieutenant governor may appoint a vice chair from among committee members, who shall conduct committee meetings in the absence of the lieutenant governor.

(3) The governor may appoint as members of the committee representatives of local governments, local housing authorities, local law enforcement agencies, and of federal and private agencies and organizations concerned with the homeless, persons with a mental illness, the elderly, single-parent families, substance abusers, and persons with a disability.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) A person appointed under this Subsection (4) may not be appointed to serve more than three consecutive terms.

(5) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-602. Purposes of Homeless Coordinating Committee -- Uses of Pamela Atkinson Homeless Account.**

(1) (a) The Homeless Coordinating Committee shall work to ensure that services provided to the homeless by state agencies, local governments, and private organizations are provided in a cost-effective manner.

(b) Programs funded by the committee shall emphasize emergency housing and self-sufficiency, including placement in meaningful employment or occupational training activities and, where needed, special services to meet the unique needs of the homeless who:

(i) have families with children;

(ii) have a disability or a mental illness; or

(iii) suffer from other serious challenges to employment and self-sufficiency.

(c) The committee may also fund treatment programs to ameliorate the effects

of substance abuse or a disability.

(2) The committee members designated in Subsection 35A-8-601(2) shall:

(a) award contracts funded by the Pamela Atkinson Homeless Account with the advice and input of those designated in Subsection 35A-8-601(3);

(b) consider need, diversity of geographic location, coordination with or enhancement of existing services, and the extensive use of volunteers; and

(c) give priority for funding to programs that serve the homeless who have a mental illness and who are in families with children.

(3) (a) In any fiscal year, no more than 80% of the funds in the Pamela Atkinson Homeless Account may be allocated to organizations that provide services only in Salt Lake, Davis, Weber, and Utah Counties.

(b) The committee may:

(i) expend up to 3% of its annual appropriation for administrative costs associated with the allocation of funds from the Pamela Atkinson Homeless Account, and up to 2% of its annual appropriation for marketing the account and soliciting donations to the account; and

(ii) pay for the initial costs of the State Tax Commission in implementing Section 59-10-1306 from the account.

(4) (a) The committee may not expend, except as provided in Subsection (4)(b), an amount equal to the greater of \$50,000 or 20% of the amount donated to the Pamela Atkinson Homeless Account during fiscal year 1988-89.

(b) If there are decreases in contributions to the account, the committee may expend money held in the account to provide program stability, but the committee shall reimburse the amount of those expenditures to the account.

(5) The committee shall make an annual report to the department regarding the programs and services funded by contributions to the Pamela Atkinson Homeless Account for inclusion in the annual written report described in Section 35A-1-109.

(6) The state treasurer shall invest the money in the Pamela Atkinson Homeless Account according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that interest and other earnings derived from the restricted account shall be deposited in the restricted account.

Amended by Chapter 371, 2014 General Session

### **35A-8-603. Creation of Pamela Atkinson Homeless Account.**

(1) There is created a restricted account within the General Fund known as the "Pamela Atkinson Homeless Account."

(2) Private contributions received under this section and Section 59-10-1306 shall be deposited into the restricted account to be used only for programs described in Section 35A-8-602.

(3) Money shall be appropriated from the restricted account to the State Homeless Coordinating Committee in accordance with Title 63J, Chapter 1, Budgetary Procedures Act.

(4) The State Homeless Coordinating Committee may accept transfers, grants, gifts, bequests, or money made available from any source to implement this part.



Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-701. Title.**

This part is known as the "Utah Housing Corporation Act."

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-702. Policy -- Finding and declaration.**

(1) The Legislature declares that the policy of the state is to assure the health, safety, and welfare of its citizens, that an adequate supply of decent, safe, and sanitary housing is essential to the well-being of the citizens of the state, and that an adequate supply of mortgage funds for housing at reasonable interest rates is in the public interest.

(2) The Legislature finds and declares that:

(a) there continues to exist throughout the state a seriously inadequate supply of safe and sanitary dwelling accommodations within the financial means of persons and families of low or moderate income who wish to purchase or rent residential housing;

(b) from time to time the high rates of interest charged by mortgage lenders seriously restrict the transfer of existing housing and new housing starts;

(c) the reduction in residential construction starts associated with the high rates causes a condition of substantial unemployment and underemployment in the construction industry which impedes the economy of the state and affects the welfare and prosperity of all the people of the state;

(d) these conditions associated with the recurrent shortages of residential mortgage funds contribute to slums and blight in the cities and rural areas of the state and ultimately to the deterioration of the quality of living conditions within the state;

(e) in accordance with the purpose of this part to assist in providing housing for low and moderate income persons who otherwise could not achieve decent, safe, and sanitary housing, the agency shall make every effort to make housing available in rural, inner city, and other areas experiencing difficulty in securing construction and mortgage loans, and to make decent, safe, and sanitary housing available to low income persons and families;

(f) in order to assure an adequate fund of private capital into this housing, the cooperation between private enterprise and state government is essential and is in the public interest;

(g) low and moderate income persons in Utah have a wide range of housing needs, which necessitates the development of many different kinds of programs to address those needs, including programs providing mortgage loans, nontraditional loans, grants, and other forms of financial assistance, and combinations of these forms;

(h) there are private organizations and governmental entities throughout Utah that are endeavoring to improve the availability of housing for low and moderate income, but many of these organizations and entities lack expertise and financial resources to act efficiently and expeditiously in these efforts;

(i) innovative programs that bring together resources from the public, nonprofit, and private sector are necessary in order to increase the supply of housing for low and moderate individuals, but these programs usually need advice and financial assistance

to become established;

(j) all of the foregoing are public purposes and uses for which money may be borrowed, expended, advanced, loaned, or granted, and that these activities serve a public purpose in improving or otherwise benefiting the people of this state, and that the necessity of enacting the provisions in this part is in the public interest and is so declared as a matter of express legislative determination; and

(k) the compelling need within the state for the creation of an adequate supply of mortgage funds at reasonable interest rates and for other kinds of financial assistance to help provide affordable housing for low and moderate income individuals can be best met by the establishment of an independent body corporate and politic, constituting a public corporation, vested with the powers and duties specified in this part.

(3) The Legislature declares that the corporation is intended to operate:

(a) with the power to issue tax exempt bonds to finance the purchase of mortgage loans to qualified buyers;

(b) as a financially independent body; and

(c) so that its debts shall be payable solely from payments received by the corporation from mortgage borrowers and other revenues generated internally by the corporation.

Renumbered and Amended by Chapter 212, 2012 General Session

### **35A-8-703. Definitions.**

As used in this part the following words and terms have the following meanings, unless a different meaning clearly appears from the context:

(1) "Bonds," "notes," and "other obligations" mean any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness of the corporation authorized to be issued under the provisions of this part.

(2) "Construction loan" means a short-term advance of money for the purpose of constructing residential housing for low and moderate income persons.

(3) "Corporation" means the Utah Housing Corporation created by Section 35A-8-704, which, prior to July 1, 2001, was named the Utah Housing Finance Agency.

(4) "Employee of the corporation" means an individual who is employed by the corporation but who is not a trustee of the corporation.

(5) "Financial assistance" includes:

(a) a loan, whether interest or noninterest bearing, secured or unsecured;

(b) a loan that converts to a grant upon the occurrence of specified conditions;

(c) a development loan;

(d) a grant;

(e) an award;

(f) a subsidy;

(g) a guarantee;

(h) a warranty;

(i) a lease;

(j) a payment on behalf of a borrower of an amount usually paid by a borrower, including a down payment;

(k) any other form of financial assistance that helps provide affordable housing

for low and moderate income persons; or

(l) any combination of Subsections (5)(a) through (k).

(6) "Housing development" means a residential housing project, which includes residential housing for low and moderate income persons.

(7) "Housing sponsor" includes a person who constructs, develops, rehabilitates, purchases, or owns a housing development that is or will be subject to legally enforceable restrictive covenants that require the housing development to provide, at least in part, residential housing to low and moderate income persons, including a local public body, a nonprofit, limited profit, or for profit corporation, a limited partnership, a limited liability company, a joint venture, a subsidiary of the corporation, or any subsidiary of the subsidiary, a cooperative, a mutual housing organization, or any other type of entity or arrangement that helps provide affordable housing for low and moderate income persons.

(8) "Interest rate contract" means interest rate exchange contracts, interest rate floor contracts, interest rate ceiling contracts, and other similar contracts authorized in a resolution or policy adopted or approved by the trustees.

(9) "Local public body" means the state, a municipality, county, district, or other subdivision or instrumentality of the state, including a redevelopment agency and a housing authority created under Part 4, Housing Authorities.

(10) "Low and moderate income persons" means persons, irrespective of race, religion, creed, national origin, or sex, as determined by the corporation to require such assistance as is made available by this part on account of insufficient personal or family income taking into consideration factors, including:

(a) the amount of income that persons and families have available for housing needs;

(b) the size of family;

(c) whether a person is a single head of household;

(d) the cost and condition of available residential housing; and

(e) the ability of persons and families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe, and sanitary housing.

(11) "Mortgage" means a mortgage, deed of trust, or other instrument securing a mortgage loan and constituting a lien on real property (the property being held in fee simple or on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of not less than the term for repayment of the mortgage loan secured by the mortgage) improved or to be improved by residential housing, creating a lien which may be first priority or subordinate.

(12) "Mortgage lender" means a bank, trust company, savings and loan association, credit union, mortgage banker, or other financial institution authorized to transact business in the state, a local public body, or any other entity, profit or nonprofit, that makes mortgage loans.

(13) "Mortgage loan" means a loan secured by a mortgage, which loan may bear interest at either a fixed or variable rate or which may be noninterest bearing, the proceeds of which are used for the purpose of financing the construction, development, rehabilitation, or purchase of residential housing for low and moderate income persons, including low and moderate income persons who:

- (a) are first-time homebuyers;
- (b) are single heads of household;
- (c) are elderly;
- (d) are homeless; or
- (e) have a disability.

(14) "Rehabilitation" includes the reconstruction, rehabilitation, improvement, and repair of residential housing.

(15) "Residential housing" means a specific work or improvement within the state undertaken primarily to provide dwelling accommodations, including land, buildings, and improvements to land and buildings, whether in one to four family units or multifamily units, and other incidental or appurtenant nonhousing facilities, or as otherwise specified by the agency.

(16) "State" means the state of Utah.

(17) "State housing credit ceiling" means the amount specified in Subsection 42(h)(3)(C) of the Internal Revenue Code for each calendar year.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-704. Creation -- Trustees -- Terms -- Vacancies -- Chair -- Powers -- Quorum -- Per diem and expenses.**

(1) (a) There is created an independent body politic and corporate, constituting a public corporation, known as the "Utah Housing Corporation."

(b) The corporation may also be known and do business as the:

- (i) Utah Housing Finance Association; and
- (ii) Utah Housing Finance Agency in connection with any contract entered into when that was the corporation's legal name.

(c) Any other entity may not use the names described in Subsections (1)(a) and (b) without the express approval of the corporation.

(2) The corporation is governed by a board of trustees composed of the following nine trustees:

(a) three ex officio trustees who are:

(i) the executive director of the Department of Workforce Services or the executive director's designee;

(ii) the commissioner of the Department of Financial Institutions or the commissioner's designee; and

(iii) the state treasurer or the treasurer's designee; and

(b) six public trustees, who are private citizens of the state, as follows:

(i) two people who represent the mortgage lending industry;

(ii) two people who represent the home building and real estate industry; and

(iii) two people who represent the public at large.

(3) The governor shall:

(a) appoint the six public trustees of the corporation with the consent of the Senate; and

(b) ensure that:

(i) the six public trustees are from different counties and are residents of Utah; and

(ii) not more than three of the public trustees belong to the same political party.

(4) (a) Except as required by Subsection (4)(b), the governor shall appoint the six public trustees to terms of office of four years each.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of corporation trustees are staggered so that approximately half of the board is appointed every two years.

(5) (a) Any of the six public trustees of the corporation may be removed from office for cause either by the governor or by an affirmative vote of six trustees of the corporation.

(b) When a vacancy occurs in the board of trustees for any reason, the replacement shall be appointed for the unexpired term.

(c) A public trustee shall hold office for the term of appointment and until the trustee's successor has been appointed and qualified.

(d) A public trustee is eligible for reappointment but may not serve more than two full consecutive terms.

(6) (a) The governor shall select the chair of the corporation.

(b) The trustees shall elect from among their number a vice chair and other officers they may determine.

(7) (a) Five trustees of the corporation constitute a quorum for transaction of business.

(b) An affirmative vote of at least five trustees is necessary for any action to be taken by the corporation.

(c) A vacancy in the board of trustees may not impair the right of a quorum to exercise all rights and perform all duties of the corporation.

(8) A trustee may not receive compensation or benefits for the trustee's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-705. Corporation as continuation of agency.**

The corporation is a continuation of the Utah Housing Finance Agency and shall:

(1) possess all rights, title, privileges, powers, immunities, property, and claims of the agency; and

(2) fulfill and perform all obligations of the agency, including all agency obligations relating to outstanding bonds and notes.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-706. President and chief executive officer -- Secretary-treasurer -- Powers and duties -- Power to employ experts -- Power to employ independent legal counsel.**

(1) (a) The trustees shall appoint a president who is the chief executive officer of the corporation, but who may not be a trustee of the corporation, and who serves at the pleasure of the trustees and receive compensation as set by the trustees.

(b) The president, who shall also be the secretary-treasurer, shall administer, manage, and direct the affairs and activities of the corporation in accordance with the policies, control, and direction of the trustees.

(c) The president shall approve all accounts for salaries, allowable expenses of the corporation, or of any corporation employee or consultant, and expenses incidental to the operation of the corporation.

(d) The president shall perform any other duties as may be directed by the trustees in carrying out the purposes of this part.

(2) (a) The president shall:

(i) attend the meetings of the corporation;

(ii) keep a record of the proceedings of the corporation; and

(iii) maintain and be custodian of:

(A) books, documents, and papers filed with the corporation;

(B) the minute book or journal of the corporation; and

(C) the corporation's official seal.

(b) The president may cause copies to be made of minutes and other records and documents of the corporation and may give certificates under seal of the corporation to the effect that those copies are true copies, and a person dealing with the corporation may rely upon those certificates.

(3) (a) The corporation may employ or engage technical experts, independent professionals and consultants, and any other officers, agents, or employees, permanent or temporary, as it considers necessary to carry out the efficient operation of the corporation, and shall determine their qualifications, duties, and compensation.

(b) The trustees may delegate to one or more of the corporation's agents, representatives, or employees any administrative duties as they consider proper.

(4) The corporation may employ and retain independent legal counsel.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-707. Relation to certain acts.**

(1) The corporation is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 51, Chapter 7, State Money Management Act;

(c) Title 63A, Utah Administrative Services Code;

(d) Title 63G, Chapter 6a, Utah Procurement Code;

(e) Title 63J, Chapter 1, Budgetary Procedures Act;

(f) Title 63J, Chapter 2, Revenue Procedures and Control Act; and

(g) Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The corporation shall comply with:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

Renumbered and Amended by Chapter 212, 2012 General Session

Amended by Chapter 347, 2012 General Session

**35A-8-708. Disclosure of interest.**

(1) A trustee, officer, or employee of the corporation who has, will have, or later acquires an interest, direct or indirect, in a transaction with the corporation shall immediately disclose the nature and extent of that interest in writing to the corporation as soon as the trustee, officer, or employee has knowledge of the actual or prospective interest.

(2) (a) This disclosure shall be entered upon the minutes of the corporation.

(b) Upon the disclosure, that trustee, officer, or employee may participate in any action by the corporation authorizing the transaction.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-709. Officer or employee -- No forfeiture of office or employment.**

Notwithstanding the provisions of any other law, no officer or employee of this state forfeits a state office or state employment by accepting an appointment or by serving as a trustee of the corporation.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-710. Surety bond required.**

(1) The corporation shall maintain:

(a) for each trustee a surety bond in the penal sum of \$25,000; and

(b) for the president of the corporation a surety bond in the penal sum of \$50,000.

(2) A surety bond shall be conditioned upon the faithful performance of the duties of the office of the trustee or president, as the case may be, and shall be issued by a surety company authorized to transact business in the state as surety.

(3) A trustee and the president shall maintain these bonds in full force and effect.

(4) The corporation shall bear all costs of the surety bonds.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-711. Corporation -- Powers.**

The corporation has and may exercise all powers necessary or appropriate to carry out the purposes of this part, including:

(1) to have perpetual succession as a body politic and corporate, constituting a public corporation, and to adopt, amend, and repeal rules, policies, and procedures for the regulation of its affairs and the conduct of its business;

(2) to sue and be sued in its own name;

(3) to have an official seal and power to alter that seal at will;

(4) to maintain an office at a place within this state the corporation designates;

(5) to adopt, amend, and repeal bylaws and rules that are consistent with this part to carry into effect the powers and purposes of the corporation and the conduct of

its business;

(6) to make and execute contracts and other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this part, including contracts or agreements for the servicing and originating of mortgage loans;

(7) to employ advisers, consultants, and agents, including financial experts, independent legal counsel, and other advisers, consultants, and agents as necessary in the corporation's judgment and to fix their compensation;

(8) to procure insurance against any loss in connection with its property and other assets, including mortgage loans, in amounts and from insurers it considers desirable;

(9) to borrow money and to issue bonds and notes or other evidences of indebtedness as provided in this part;

(10) to receive and accept aid or contributions from any source of money, property, labor, or other things of value to be held, used, loaned, granted, and applied to carry out the purposes of this part subject to the conditions, if any, upon which the grants and contributions are made, including gifts or grants from a department, agency, or instrumentality of the United States or of this state for any purpose consistent with this part;

(11) to enter into agreements with a local public body, a housing sponsor, a department, agency, or instrumentality of the United States or this state, or with mortgagors and mortgage lenders for the purpose of planning and regulating and providing for the financing and refinancing, construction, rehabilitation, leasing, management, maintenance, operation, sale, or other disposition of any residential housing undertaken with the assistance of the corporation under this part;

(12) to exercise all of its remedies following the default under a mortgage loan, including:

(a) proceeding with a foreclosure action or private sale to obtain title to the real and personal property held as collateral and taking assignments of leases and rentals;

(b) to own, lease, clear, reconstruct, rehabilitate, repair, maintain, manage, and operate this property in preparation for its disposition; and

(c) to assign, encumber, sell, or otherwise dispose of this property;

(13) to invest money not required for immediate disbursement, including money held in reserve, in a manner consistent with applicable provisions of Title 51, Chapter 7, State Money Management Act;

(14) to provide technical and financial assistance to housing sponsors and advisory committees in the development or operation of housing for low and moderate income persons;

(15) to gather and distribute data and information concerning the housing needs of low and moderate income families within the various communities of this state;

(16) to the extent permitted under a contract with the holders of bonds, notes, and other obligations of the corporation, to consent to a modification with respect to rate of interest, time and payment of an installment of principal or interest security, or other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind to which the corporation is a party;

(17) to the extent permitted under a contract with the holders of bonds, notes,



and other obligations of the corporation, to enter into contracts with a mortgagor or housing sponsor containing provisions enabling the mortgagor to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges where, by reason of other income or payment by a department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of residential housing being financed;

(18) to acquire property within this state for the purpose of holding it for subsequent disposition to a housing sponsor or other entity that can use it for residential housing for low and moderate income persons, except that if no person can be found to use it in this manner, the corporation may dispose of the property to any person;

(19) to purchase, own and operate residential housing for the benefit, in whole or in part, of low and moderate income persons, so long as the corporation makes reasonable efforts to sell that residential housing to a housing sponsor;

(20) to incorporate or form one or more subsidiaries of the corporation for the purpose of carrying out any of the powers of the corporation and accomplishing any of the purposes of the corporation, to invest in and provide financial assistance to these subsidiaries, to borrow from these subsidiaries, to guarantee the obligations of these subsidiaries, and to enter into agreements with these subsidiaries to carry out any of the corporation's powers under this part;

(21) to enter into partnership and limited liability company agreements, to purchase and sell interests in housing sponsors, to serve as general partner of a partnership, and to serve as a manager of a limited liability company to carry out any of the corporation's powers under this part;

(22) to require that persons receiving a mortgage loan or financial assistance from the corporation subject the property involved to restrictive covenants that shall be considered to be running with the land, regardless of whether or not the corporation enjoys privity of estate or whether or not the covenant touches and concerns the burdened property;

(23) to enter into management agreements with a person or entity for the performance by the person or entity for the corporation of any of its functions or powers, with terms and conditions as may be mutually agreeable;

(24) to sell, at public or private sale, with or without public bidding, a mortgage loan or other obligation held by the corporation;

(25) to sell or convey real property owned by the corporation to low or moderate income persons and housing sponsors, without consideration if the sale or conveyance will inure primarily to the benefit of low or moderate income persons living in a housing development;

(26) upon making a determination that the financial status of a housing development will jeopardize an economic interest of the corporation in the housing development, to assume managerial and financial control of the property or the owner and to supervise and prescribe the activities of the property or the owner in a manner and under terms and conditions as the corporation may stipulate in a contract;

(27) to supervise housing sponsors of housing developments;

(28) to service mortgage loans;

(29) to give consideration to those activities which promote the availability of

accessible housing; and

(30) to do an act necessary or convenient to the exercise of the powers granted in or reasonably implied from this part.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-712. Corporation -- Additional powers.**

(1) To accomplish the declared purposes of this part, the corporation has the following powers:

(a) to purchase mortgage loans originated by mortgage lenders or local public bodies made for the purpose of financing the construction, development, rehabilitation, or purchase of residential housing for low and moderate income persons;

(b) to make mortgage loans and to provide financial assistance to housing sponsors for the purpose of financing the construction, development, rehabilitation, or purchase of residential housing for low and moderate income persons;

(c) to make mortgage loans and provide financial assistance to housing sponsors for the purpose of financing the operations of a housing development that are necessary or desirable to enable the housing development to remain available as residential housing for low and moderate income persons, whether or not the housing development has been financed by the corporation;

(d) to provide financial assistance to any housing authority created under Part 4, Housing Authorities, which housing authorities may enter into commitments for and accept loans for a housing project as defined in Section 35A-8-401; and

(e) to make mortgage loans and to provide financial assistance to low and moderate income persons for the construction, rehabilitation, or purchase of residential housing.

(2) The corporation may issue bonds to purchase loans under Subsection (1)(a) only after a determination by the corporation that the loans are not otherwise available upon reasonably equivalent terms and conditions from private lenders.

(3) Loans for owner-occupied housing made under Subsection (1)(a) may not include a penalty for prepayment.

(4) The corporation shall make rules or adopt policies and procedures to govern the activities authorized under this section, including:

(a) procedures for the submission of requests or the invitation of proposals for the purchase and sale of mortgage loans and the making of mortgage loans;

(b) rates, fees, charges, and other terms and conditions of originating or servicing mortgage loans in order to protect against a realization of an excessive financial return or benefit by the originator or servicer;

(c) the type and amount of collateral, payment bonds, performance bonds, or other security to be provided for construction loans made by the corporation;

(d) the nature and amounts of fees to be charged by the corporation to provide for expenses and reserves of the corporation;

(e) procedures allowing the corporation to prohibit persons who fail to comply with the rules of the corporation with respect to the operations of a program of the corporation from participating, either directly or indirectly, in the programs of the corporation;

(f) the terms and conditions under which the corporation may purchase and make mortgage loans under each program of the corporation;

(g) the terms and conditions under which the corporation may provide financial assistance under each program of the corporation;

(h) the terms and conditions under which the corporation may guarantee mortgage loans under each program of the corporation; and

(i) any other matters related to the duties or exercise of powers under this section.

(5) (a) (i) The trustees of the corporation shall elect the directors, trustees, and members, if any, of each subsidiary.

(ii) Service by a trustee of the corporation in any of these capacities does not constitute a conflict of interest for any purpose.

(iii) The corporation may delegate any of its powers and duties under this part to any subsidiary.

(iv) Subsidiaries shall constitute legal entities separate and distinct from each other, the corporation, and the state.

(b) A note, bond, and other obligation of a subsidiary shall contain on its face a statement to the effect that:

(i) the subsidiary is obligated to pay the note, bond, or other obligation solely from the revenues or other funds of the subsidiary;

(ii) neither the corporation nor the state nor any of its political subdivisions is obligated to pay the note, bond, or other obligation; and

(iii) neither the faith and credit nor the taxing power of the state or its political subdivisions is pledged to the payment of principal, or redemption price of, or the interest on the note, bond, or other obligation.

(c) Upon dissolution of a subsidiary of the corporation, any assets shall revert to the corporation or to a successor to the corporation or, failing this succession, to the state.

(6) (a) The corporation may:

(i) enter into interest rate contracts that its trustees determine are necessary, convenient, or appropriate for the control or management of debt or for the cost of servicing debt; and

(ii) use corporation funds to satisfy its payment obligations under those contracts.

(b) An interest rate contract may contain payment, security, default, termination, remedy, and other terms and conditions that the trustees consider appropriate.

(c) An interest rate contract and funds used in connection with an interest rate contract may not be considered a deposit or investment.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-713. Power to issue mortgage credit certificates -- Impact of federal legislation on tax exempt status of corporation bond.**

(1) In order to accomplish the purposes of this part the corporation may issue mortgage credit certificates under 26 U.S.C. Sec. 143, as amended, and the regulations issued under the code and has the sole responsibility for issuing or approving the

issuance of mortgage credit certificates allowable to the state.

(2) A power granted to the corporation by this part may not be diminished by the enactment of federal legislation that would cause the interest on bonds, notes, or other obligations of the corporation to be subject to taxation under federal law.

(3) An exemption from state taxation granted in this part is not affected by federal legislation described under Subsection (2).

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-714. Power to borrow money and make loans -- Issuance of notes and bonds.**

(1) The corporation has the power to borrow money and to issue its notes, bonds, and other obligations in such principal amounts as the corporation determines is necessary to provide sufficient money for:

- (a) the purchase of mortgage loans from mortgage lenders;
- (b) the making of construction loans;
- (c) the making of loans to housing authorities;
- (d) the payment of interest on bonds, notes, and other obligations of the corporation;
- (e) the establishment of reserves to secure the bonds, notes, and other obligations;
- (f) the making of mortgage loans;
- (g) the making of loans to mortgage lenders or other lending institutions with respect to multifamily residential rental housing under terms and conditions requiring the proceeds of these loans to be used by these mortgage lenders or other lending institutions for the making of loans for new multifamily residential rental housing or the acquisition or rehabilitation of existing multifamily residential rental housing;
- (h) the making of loans for the rehabilitation of residential housing; and
- (i) all other expenditures of the corporation incident to and necessary or convenient to carry out its purposes and powers.

(2) (a) The corporation may issue notes to renew notes and bonds to pay notes, including interest, and whenever it considers refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes.

(b) The refunding bonds may be:

- (i) sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded; or
- (ii) exchanged for the bonds to be refunded.

(3) (a) Except as otherwise expressly provided by the corporation, every issue of the corporation's notes or bonds are general obligations of the corporation payable solely by money of the corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular money.

(b) These bonds or notes may be additionally secured by a pledge of:

- (i) a grant or contribution from the federal government or a corporation, association, institution, or person; or

(ii) money, income, or revenues of the corporation from any source.

(4) (a) The notes and bonds shall be authorized by resolution or resolutions of the corporation, shall bear the date or dates, and shall mature at the time or times as the resolution or resolutions may provide, except that no note, including any renewals thereof, shall mature more than five years from the date of its original issue, and no bond shall mature more than 50 years from the date of its issue, as provided by the resolution.

(b) The notes and bonds shall bear interest at the rate or rates, including variations in the rates, be in denominations, be in a form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in a medium of payment, at the place or places, and be subject to the terms of redemption, including redemption prior to maturity, as provided by the resolution.

(c) The notes and bonds of the corporation may be sold by the corporation at public or private sale, and at the price or prices determined by the corporation.

(d) (i) The notes and bonds may bear interest at a variable interest rate as provided by the resolution.

(ii) The resolution may establish a method, formula, or index by which the interest rate on the notes and bonds is determined.

(e) In connection with the notes and bonds, the corporation may authorize and enter into agreements or other arrangements with financial, banking, and other institutions for letters of credit, standby letters of credit, surety bonds, reimbursement agreements, remarketing agreements, indexing agreements, tender agent agreements, and other agreements with respect to:

(i) securing the notes and bonds;  
(ii) enhancing the marketability and credit worthiness of the notes and bonds;  
(iii) determining a variable interest rate on the notes and bonds; and  
(iv) paying from any legally available source, which may include the proceeds of the notes and bonds, fees, charges, and other amounts coming due with respect to these agreements.

(5) A resolution authorizing any notes or bonds or their issue may contain provisions, which are a part of the contract or contracts with their holders, as to:

(a) pledging all or any part of the revenues to secure the payment of the notes or bonds or of any issue of the notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;

(b) pledging all or any part of the assets of the corporation, including mortgages and obligations securing the assets, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to the agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of the gross income from mortgages owned by the corporation and payment of principal of mortgages owned by the corporation;

(d) the setting aside of reserves or sinking funds and their regulation and disposition;

(e) limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging the proceeds to secure the payment of the notes or bonds or of their issue;

(f) limitations on the issuance of additional notes or bonds, including:

(i) the terms upon which additional notes or bonds may be issued and secured;  
and

(ii) the refunding of outstanding or other notes or bonds;

(g) the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds to which the holders must consent, and the manner in which the consent may be given;

(h) limitations on the amount of money to be expended by the corporation for operating expenses of the corporation;

(i) vesting in a trustee or trustees the property, rights, powers, and duties in trust as determined by the corporation, which may include any or all of the rights, powers, and duties of the trustee appointed by the noteholders or bondholders under this act and limiting or abrogating the right of noteholders or bondholders to appoint a trustee under this act or limiting the rights, powers, and duties of the trustee;

(j) (i) defining the acts or omissions to act that constitute a default in the obligations and duties of the corporation to the holders of the notes or bonds and providing for the rights and remedies of the holders of the notes or bonds in the event of default, including as a matter of right the appointment of a receiver;

(ii) but the rights and remedies may not be inconsistent with the general laws of the state and other provisions of this part; or

(k) any other matters, of like or different character, which in any way affect the security or protection of the holders of the notes or bonds.

(6) (a) A pledge made by the corporation is valid, enforceable, and binding from the time when the pledge is made and has a lien priority based on the time of grant or, if more than one lien is granted at a given time, as set forth in the resolution or instrument under which the pledge is made.

(b) (i) The revenues, money, or property pledged and then received by the corporation are immediately subject to the lien of the pledge and constitute a perfected lien without any physical delivery or further act.

(ii) The lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the corporation, irrespective of whether the parties have notice of the lien.

(c) Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(7) The corporation, subject to the agreements with noteholders or bondholders as may then exist, has power to use available money to purchase notes or bonds of the corporation, which shall immediately be cancelled, at a price not exceeding:

(a) if the notes or bonds are redeemable at the time of the purchase, the applicable redemption price plus accrued interest to the next interest payment on the notes or bonds; or

(b) if the notes or bonds are not redeemable at the time of the purchase, the redemption price applicable on the first date after the purchase that the notes or bonds are subject to redemption plus accrued interest to that date.

(8) (a) The notes and bonds shall be secured by a trust indenture by and between the corporation and a corporate trustee, which may be a bank having the power of a trust company or a trust company within or without the state.

(b) The trust indenture may contain provisions for protecting and enforcing the

rights and remedies of the noteholders or bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its corporate powers and the custody, safeguarding, and application of all money.

(c) The corporation may provide by the trust indenture for the payment of the proceeds of the notes or bonds and the revenues to the trustee under the trust indenture or other depository, and for the method of their disbursement, with any safeguards and restrictions as it may determine.

(d) All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the corporation.

(e) If the notes or bonds are secured by a trust indenture, the noteholders or bondholders may not have authority to appoint a separate trustee to represent them.

(9) Whether or not the notes and bonds are of the form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the notes and bonds are negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the notes and bonds relating to registration.

(10) In the event that any of the trustees or officers of the corporation cease to be trustees or officers of the corporation prior to the delivery of any notes or bonds or coupons signed by them, their signatures or facsimiles of their signatures are valid and sufficient for all purposes, the same as if the trustees or officers had remained in office until the delivery.

(11) A trustee of the corporation or a person executing the notes or bonds issued under this chapter is not subject to personal liability or accountability by reason of the issuance of the notes or bonds.

(12) The corporation may provide for the replacement of lost, destroyed, or mutilated bonds or notes.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-715. Capital reserve funds -- Capital reserve fund requirement -- Establishment of other funds.**

(1) (a) (i) The corporation may create one or more reserve funds, hereafter referred to as "capital reserve funds," from:

(A) proceeds from the sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance of the notes or bonds;

(B) money appropriated and made available by the state for the purpose of the funds;

(C) money directed by the corporation to be transferred to the funds; and

(D) other money made available to the corporation for the purpose of the funds from any other source.

(ii) Money held in a capital reserve fund shall be used solely for the payment of the principal of bonds or of the sinking fund payments with respect to the bonds, the purchase or redemption of bonds, the payment of interest on bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity.

(b) (i) Money in a capital reserve fund may not be withdrawn from the fund at any time in an amount that would reduce the level of money in the fund to less than the capital reserve fund requirement, except for the purpose of paying principal and redemption price of and interest on bonds and the sinking fund payments, as the payments become due and for the payment of which other money of the corporation is not available.

(ii) Income or interest earned by the investment of money held in a fund may be transferred by the corporation to other funds or accounts of the corporation to the extent that the transfer does not reduce the amount of the fund to below the capital reserve fund requirement.

(c) The corporation may provide by resolution that it may not issue bonds under a resolution at any time if upon issuance the amount in the capital reserve fund which will secure the bonds shall be less than the capital reserve fund requirement, unless the corporation at the time of issuance of the bonds deposits in the fund from the proceeds of those bonds, or other sources, an amount which, together with the amount then in the fund, may not be less than the capital reserve fund requirement.

(d) In computing the amount of the capital reserve funds for the purpose of this part, securities in which all or a portion of the funds shall be invested shall be valued at par, cost, or by other method of valuation as the corporation may provide by resolution.

(e) (i) "Capital reserve fund requirement" means, as of any particular date of computation, and with respect to any particular issue of bonds, an amount as the corporation may provide, or may have previously provided, by resolution, which amount may be in the form of a sum certain or a formula.

(ii) In establishing reserves and setting capital reserve fund requirements, the corporation shall consider the following:

(A) the qualifications for obtaining an investment grade rating from one or more nationally recognized bond rating agencies;

(B) the economic feasibility and marketability of the bonds being issued, taking into account all security for the bonds, including the capital reserve fund; and

(C) applicable requirements pertaining to reserve funds under federal and state income tax laws and regulations.

(f) (i) To assure the continued operation and solvency of the corporation for carrying out of its corporate purposes, provision is made in Subsection (1)(b) for the accumulation in the capital reserve funds of an amount equal to the maximum capital reserve fund requirement.

(ii) The president of the corporation shall annually, on or before December first, certify to the governor and to the director of finance the amount, if any, required to restore the capital reserve funds to the capital reserve fund requirement.

(iii) The governor may request from the Legislature an appropriation of the certified amount to restore the capital reserve funds to the capital reserve fund requirement.

(g) Amounts appropriated shall be repaid to the General Fund of the state, from any money in excess of the amounts which the corporation determines will keep it self-supporting.

(2) The corporation may create other funds as may be necessary or desirable for its corporate purposes.



Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-716. Corporation money -- Depositing and paying out -- Power to contract with holders of notes and bonds -- Money held in trust.**

(1) (a) All money of the corporation, except as otherwise authorized or provided in this part, shall be deposited as soon as practicable in a separate account or accounts in banks or trust companies organized under the laws of the state or national banking association.

(b) The money in these accounts shall be paid out on checks signed by the president or other officers or employees of the corporation as authorized by the corporation.

(c) All deposits of money shall, if required by the corporation, be secured in a manner as the corporation determines to be prudent, and banks and trust companies are authorized to give security for the deposits.

(2) (a) Notwithstanding the provisions of this section, the corporation may contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of any money of the corporation and of any money held in trust or otherwise for the payment of notes or bonds, and to carry out that contract.

(b) Money held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of money may be secured in the same manner as money of the corporation, and banks and trust companies may give security for the deposits.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-717. State pledge to holders of notes or bonds.**

(1) The state pledges and agrees with the holders of any notes or bonds issued under this act that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the holders of the notes or bonds or in any way impair the rights and remedies of the holders until the notes and bonds, together with their interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged.

(2) The corporation may include this pledge and agreement of the state in any agreement with the holders of the notes or bonds.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-718. Notes, bonds, other obligations -- Not a debt liability -- Expenses payable from funds provided -- Corporation without authority to incur liability on behalf of state -- Relationship to Governmental Immunity Act of Utah.**

(1) (a) (i) Notes, bonds, and other obligations issued under this part are not a debt or liability of this state or of a county, city, town, school district, or other political subdivision of the state.

(ii) The notes, bonds, or other obligations do not constitute the loaning of credit of the state or of a county, city, town, school district, or other political subdivision of the state.

(iii) The notes, bonds, or other obligations are not payable from money other than that of the corporation.

(b) All notes, bonds, or other obligations shall contain on their face a statement to the effect that:

(i) the corporation shall pay the note, bond, or obligation solely from the revenues or other money of the corporation;

(ii) neither this state nor any of its political subdivisions are obligated to pay the note, bond, or obligation; and

(iii) neither the faith and credit nor the taxing power of this state or any of its political subdivisions are pledged to the payment of principal, or redemption price of, or the interest on the notes, bonds, or other obligations.

(2) All expenses incurred in carrying out this part are payable solely from funds provided under this part, and nothing in this part authorizes the corporation to incur indebtedness or liability on behalf of or payable by this state or any of its political subdivisions.

(3) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to the corporation.

(b) Notwithstanding Subsection (3)(a), a claim may not be brought against the state, any public official or employee of the state, another public entity, or any public official or employee of another public entity, based on or arising from:

(i) a failure to fulfill a contractual obligation of the corporation;

(ii) an act or failure to act by the corporation or its trustees, officers, employees, agents, or representatives; or

(iii) failure of the corporation to comply with the requirements of any law or regulation.

(c) The provisions of Subsection (3)(b) do not apply to a claim of a current or former officer or employee of the corporation for retirement or insurance benefits.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-719. Corporation property, notes, and bonds -- Tax exemption except corporate franchise tax.**

(1) Property acquired or held by the corporation under this part is declared to be public property used for essential public and governmental purposes.

(2) The property, its income, and notes and bonds issued under this part, the interest payable on the notes and bonds, and income derived from the notes and bonds are exempt from taxation of every kind by the state, a county, a municipality, and any other political subdivision of the state, except for the corporate franchise tax.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-720. Corporation notes, bonds, obligations -- Legal investments.**

(1) The notes, bonds, and other obligations issued under the authority of this

part are securities in which all public officers and public bodies of the state and its political subdivisions, all banks, bankers, savings banks, trust companies, credit unions, savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies and insurance associations, and others carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, pension, profit-sharing and retirement funds, and all other persons who may now or may later be authorized to invest in notes, bonds, or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control.

(2) These notes, bonds, and other obligations are securities that may properly and legally be deposited with and received by any state, county, or municipal officer, or agency of the state for any purpose for which the deposit of notes, bonds, or other obligations of the state is now or may later be authorized by law.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-721. Annual report to governor and Legislature -- Contents -- Audits.**

(1) (a) The corporation shall, following the close of each fiscal year, submit, by October 1, an annual written report of its activities for the preceding year to the governor and the Retirement and Independent Entities Interim Committee.

(b) Each report shall set forth a complete operating and financial statement of the corporation during the fiscal year it covers.

(c) At least once each year, an independent certified public accountant shall audit the books and accounts of the corporation.

(d) A complete copy of each annual audit report shall be:

(i) included in the report to the governor and the Legislature under Subsection (2); and

(ii) available for public inspection at the corporation's office.

(2) The corporation shall, each fiscal year, submit a budget of its operations to the Legislature and the governor.

(3) (a) The corporation shall form an audit committee consisting of no less than three trustees.

(b) The audit committee has exclusive authority to:

(i) select and engage the independent certified public accountant to audit the corporation; and

(ii) supervise the audit.

(4) The corporation shall provide additional information upon request by the governor, the Legislature, a legislative committee, the legislative auditor general, or the state auditor.

Amended by Chapter 371, 2014 General Session

**35A-8-722. Act not restriction on powers of corporation -- Construed as alternative -- Bonds, notes, obligations issued need not comply with other laws.**

(1) (a) This part and its contents are not a restriction or limitation upon other powers that the corporation has under other laws of this state.

(b) This part is cumulative to the powers referenced in Subsection (1)(a).

(2) This part provides a complete, additional, and alternative method for doing the things authorized in this part and is supplemental and additional to powers conferred by other laws.

(3) The issuance of bonds, notes, and other obligations under this part need not comply with the requirements of any other state law applicable to the issuance of bonds, notes, and other obligations.

(4) Proceedings, notice, or approval are not required for the issuance of any bonds, notes, and other obligations or any instrument as security for them, except as provided in this part.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-723. Allocation to corporation of mortgage bonds qualified under Internal Revenue Code.**

(1) The entire amount of qualified mortgage bonds allowable to Utah under 26 U.S.C. Sec. 143, and the regulations issued under the code, is allocated to the Utah Housing Corporation which, for purposes of 26 U.S.C. Sec. 143 and the regulations under that section, has sole responsibility for issuing or approving the issuance of qualified mortgage bonds allowable to Utah.

(2) The corporation is not required to issue or approve the issuance of qualified mortgage bonds equal in amount to the amount allowed Utah.

(3) Housing authorities in counties, cities, and towns in Utah may apply under 26 U.S.C. Sec. 143 to the corporation for funding of housing programs within their respective jurisdictions.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-724. Allocation of qualified mortgage bonds to counties, cities, and towns.**

(1) (a) The corporation may allocate all or part of the amount to one or more counties, cities, and towns within the state or to any authority or agency of any entity that is authorized to issue qualified mortgage bonds.

(b) An allocation may not be made under this section unless:

(i) the entity applies to the corporation for an allocation; and

(ii) the corporation finds that the proposed allocation would be in the best interest of the state.

(c) The corporation shall take the following factors into consideration before making its finding:

(i) the number of "low and moderate income persons," within the meaning of the Utah Housing Corporation Act, within a given area;

(ii) the likelihood that the proposed issuing entity would use the allocation to issue qualified mortgage bonds in a timely manner;

(iii) the cost to the proposed issuing entity to issue the bonds relative to the cost to the corporation to issue the bonds;

(iv) any special costs or benefits which would result from the issuance of the

bonds by the proposed issuing entity;

(v) the capability of the proposed issuing entity to administer an issuance of qualified mortgage bonds;

(vi) the needs of the proposed issuing entity relative to the needs of other counties, cities, and towns;

(vii) the effects of the proposed allocation on counties, cities, and towns which are not served by the proposed issuing entity; and

(viii) any other factors the corporation considers relevant to a determination of what is in the best interest of Utah with regard to single family housing.

(2) (a) The corporation shall specify the time within which an issuing entity shall use the allocation.

(b) Any part of the allocation which is not used within the time prescribed automatically terminates.

(c) The corporation may extend the time initially prescribed for use of the allocation.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-725. Low-income housing tax credits.**

(1) The corporation is designated the "Housing Credit Agency" for the state within the meaning of 26 U.S.C. Sec. 42(h) and for the purposes of carrying out 26 U.S.C. Sec. 42 and any regulations promulgated under that section.

(2) The entire state housing credit ceiling for each calendar year is allocated to the corporation.

(3) The allocation of the state housing credit ceiling shall be made under the state's qualified allocation plan within the meaning of 26 U.S.C. Sec. 42(m), as amended, and as provided in Subsection (4).

(4) The corporation may amend the state's qualified allocation plan as necessary to comply with revisions to the low-income housing tax credit program under 26 U.S.C. Sec. 42, or as may be necessary to further the goals and purposes of the low-income housing tax credit program for the state.

(5) The corporation, or a subsidiary of the corporation, may have a direct or indirect ownership interest in, and may materially participate in the operation and management of, a housing development or program that has received an allocation of the state housing credit ceiling.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-726. Asset disposition upon dissolution of corporation.**

Upon dissolution of the corporation:

(1) all liabilities and obligations of the corporation, including obligations to bondholders, shall be paid, satisfied, discharged, or adequately provided for; and

(2) all remaining money, property, rights, claims, and interests of the corporation shall revert or be conveyed to the state.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-801. Title.**

This part is known as the "Housing Coordination and Planning Act."

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-802. Legislative policy and purpose.**

(1) (a) The Legislature declares that it is the policy of the state that to promote the general welfare of its citizens it is necessary to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of medium and low income, in urban and rural areas.

(b) The conditions described in Subsection (1)(a) cause an increase and spread of disease and crime, and constitute a menace to the health, safety, morals, and welfare of the state.

(2) The Legislature declares that it is the policy of the state:

(a) to make adequate provision of affordable housing for:

(i) persons of medium or low income who are unable to provide themselves with decent housing including:

(A) elderly persons;

(B) persons with disabilities;

(C) veterans;

(D) special needs populations;

(E) low income persons living on tribal trust lands;

(F) persons receiving public assistance under self-sufficiency programs; or

(G) low income persons living in mobile homes, as defined in Section 70D-2-102; and

(ii) during limited periods, for disaster victims; and

(b) that the provision of safe and sanitary dwelling accommodations at rents or prices that persons of medium and low income can afford will materially assist in developing more desirable neighborhoods and alleviating the effects of poverty in this state.

(3) The purposes of this part and Part 4, Housing Authorities, are to meet these problems by:

(a) providing low-cost housing for medium and low income persons; and

(b) encouraging cooperation between political subdivisions and the nonprofit sector to make available low-cost housing in all areas of the state.

(4) It is in the public interest to use the broad financial resources and technical services available to government in cooperation with the ingenuity and expertise of private enterprise to alleviate this lack of safe and sanitary dwellings while stimulating local industry, according to the following principles:

(a) The private sector, including nonprofit entities, shall be the primary source of developing and providing affordable housing with state and local incentives to encourage housing development.

(b) State money used in the development of housing shall:

(i) be heavily leveraged when possible;

(ii) be primarily invested as loans;

(iii) be primarily spent on housing production; and

(iv) give priority to needs of persons of medium or low income who are unable to provide themselves with decent housing including:

- (A) elderly persons;
- (B) persons with disabilities;
- (C) veterans;
- (D) special needs populations;
- (E) low income persons living on tribal trust lands;
- (F) persons receiving public assistance under self-sufficiency programs; and
- (G) low income persons living in mobile homes, as defined in Section

70D-2-102.

(c) When possible based on economic feasibility and effectiveness, state housing programs shall encourage:

- (i) mixed income developments;
- (ii) socio-economic diversity in neighborhoods; and
- (iii) new, multifamily construction.

(d) State resources may be used in partnership with political subdivisions or the private sector to promote affordable housing.

(e) Within appropriations from the Legislature, the state may provide training and technical assistance to Utah's political subdivision, quasi-governmental, and nonprofit housing providers.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-803. Division -- Functions.**

(1) In addition to any other functions the governor or Legislature may assign:

(a) the division shall:

(i) provide a clearinghouse of information for federal, state, and local housing assistance programs;

(ii) establish, in cooperation with political subdivisions, model plans and management methods to encourage or provide for the development of affordable housing that may be adopted by political subdivisions by reference;

(iii) undertake, in cooperation with political subdivisions, a realistic assessment of problems relating to housing needs, such as:

- (A) inadequate supply of dwellings;
- (B) substandard dwellings; and
- (C) inability of medium and low income families to obtain adequate housing;

(iv) provide the information obtained under Subsection (1)(a)(iii) to:

- (A) political subdivisions;
- (B) real estate developers;
- (C) builders;
- (D) lending institutions;
- (E) affordable housing advocates; and
- (F) others having use for the information;

(v) advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution; and

(vi) assist political subdivisions in defining housing objectives and in preparing

for adoption a plan of action covering a five-year period designed to accomplish housing objectives within their jurisdiction; and

(b) within legislative appropriations, the division may accept for and on behalf of, and bind the state to, any federal housing or homeless program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any funds or service advanced, offered, or contributed in whole or in part by the federal government.

(2) The administration of any federal housing program in which the state is invited, permitted, or authorized to participate in distribution, disbursement, or administration of funds or services, except those administered by the Utah Housing Corporation, is governed by Sections 35A-8-501 through 35A-8-508.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-804. Technical assistance to political subdivisions for housing plan.**

(1) Within appropriations from the Legislature, the division shall establish a program to assist municipalities to meet the requirements of Section 10-9a-408 and counties to meet the requirements of Section 17-27a-408.

(2) Assistance under this section may include:

(a) financial assistance for the cost of developing a plan for low and moderate income housing;

(b) information on how to meet present and prospective needs for low and moderate income housing; and

(c) technical advice and consultation on how to facilitate the creation of low and moderate income housing.

(3) The division shall submit an annual report to the department regarding the scope, amount, and type of assistance provided to municipalities and counties under this section, including the number of low and moderate income housing units constructed or rehabilitated within the state, for inclusion in the department's annual written report described in Section 35A-1-109.

Amended by Chapter 371, 2014 General Session

**35A-8-901. Assistance to domestic violence shelters -- Rulemaking authority.**

(1) (a) The Division of Child and Family Services within the Department of Human Services has statutory responsibility to provide violence services, including temporary shelter, to victims of domestic violence under the provisions of Sections 62A-4a-101 and 62A-4a-105.

(b) The division may assist the Division of Child and Family Services by providing for the development, construction, and improvement of shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities.

(2) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing:

(a) procedures for applying for loans and grants;



- (b) criteria for awarding loans and grants; and
- (c) requirements for the repayment of loans.
- (3) The division may appoint an advisory panel to:
  - (a) assist the division in developing rules under Subsection (2); and
  - (b) recommend how available funds should be disbursed.
- (4) The division shall make loans and grants with money specifically appropriated for that purpose.
- (5) The division shall coordinate with the Division of Child and Family Services in complying with the provisions of this section.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1001. Title.**

This part is known as the "State Community Services Act."

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1002. Definitions.**

As used in this part:

- (1) "Community action agency" means a local subdivision of the state, a combination of political subdivisions, a separate public agency, or a private nonprofit agency, which:
  - (a) has the authority under its applicable charter or laws to receive funds to support community action activities and other appropriate measures designed to identify and deal with the causes of poverty in the state; and
  - (b) is designated as a community action agency by federal law, federal regulations, or the governor.
- (2) "Community action program budget" means state funds, federal block grants, and federal categorical grants that are received by the state for community action activities.
- (3) "Community action statewide organization" means community action programs, organized on a statewide basis, to enhance the capability of community action agencies.
- (4) "Community Services Block Grant" means the Federal Community Services Block Grant Act, 42 U.S.C. Sec. 9901 et seq., and any corresponding federal regulations.
- (5) "Local share" means cash or in-kind goods and services donated to a community action agency to carry out its responsibilities.
- (6) "Low-income person" means a person who is a member of a household with a gross annual income equal to or less than 125% of the poverty standard accepted by the federal agency designated to establish poverty guidelines.
- (7) "Office" means the State Community Services Office created in Section 35A-8-1003.
- (8) "Service area" means the geographical area within the jurisdiction of a community action agency or a community action statewide organization.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1003. State Community Services Office created -- Purpose.**

(1) There is created within the Housing and Community Development Division the State Community Services Office.

(2) The office shall strengthen communities by reducing poverty and improving the quality of life for low-income persons in this state.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1004. Duties of office.**

The office shall:

- (1) coordinate state activities designed to reduce poverty;
- (2) encourage entities in the private sector to participate in efforts to ameliorate poverty in the community;
- (3) cooperate with agencies of local, state, and the federal government in reducing poverty and implementing community, social, and economic programs;
- (4) receive and expend funds for the purposes outlined in this part;
- (5) enter into contracts with and award grants to public and private nonprofit agencies and organizations;
- (6) develop a state plan based on needs identified by community action agencies and community action statewide organizations;
- (7) designate community action agencies to receive funds through the Community Services Block Grant program;
- (8) fund community action agencies and community action statewide organizations;
- (9) make rules in conjunction with the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the purposes of this part;
- (10) provide assistance to local governments or private organizations for the purpose of establishing and operating a community action agency;
- (11) provide technical assistance to community action agencies to improve program planning, program development, administration, and the mobilization of public and private resources;
- (12) convene public meetings that provide citizens the opportunity to comment on public policies and programs to reduce poverty;
- (13) advise the governor and Legislature of the nature and extent of poverty in the state and make recommendations concerning changes in state and federal policies and programs;
- (14) encourage Utah's nonprofit humanitarian assistance agencies serving low-income persons by facilitating, coordinating, training, and providing technical assistance to address the needs of Utah's low-income persons by enhancing management, improving service and program delivery, facilitating partnerships, and preserving flexibility and local initiative;
- (15) develop and implement management goals that fulfill the Community Services Block Grant mission, state requirements, and the mandates of federal legislation;

(16) prepare a Community Services Block Grant plan that contains provisions describing how the state will carry out the assurances of the Community Services Block Grant Act;

(17) act as the state agency responsible for the evaluation and improvement of emergency food assistance services in the state;

(18) monitor the impact of social policies on the emergency food network;

(19) provide training and technical assistance to grantees to assist their:

(a) program development and implementation;

(b) compliance with state and federal regulations; and

(c) reporting and management information systems;

(20) make the distributions required by Section 35A-8-1009; and

(21) administer other programs to alleviate poverty that are assigned to the office.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1005. Distribution of Community Services Block Grant funds.**

Community Services Block Grant funds received by the office shall be distributed as follows:

(1) 90% to community action agencies;

(2) 5% to:

(a) organizations with a statewide focus to accomplish specific objectives that complement the Community Services Block Grant poverty programs;

(b) provide training and technical assistance for grantees of Community Services Block Grant funds; or

(c) supplement anti-poverty projects; and

(3) 5% to reimburse costs incurred by the office in administration of this part.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1006. Evaluations -- Reports.**

(1) The office shall periodically evaluate grantees of Community Services Block Grant funds as established by rule by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) A grantee of Community Services Block Grant funds shall submit to the office a year-end report, covering a reporting period consistent with the federal fiscal year, which provides an account of the grantee's programs operated with or supported by Community Services Block Grant funds, including:

(a) the types of programs operated by the grantee;

(b) the outcome of each program;

(c) the number of persons served by each program;

(d) the number of times service was given by each program; and

(e) an accounting of the Community Services Block Grant funds expended by the grantee.

(3) The office shall report annually to the appropriate legislative appropriations subcommittee on the distribution and expenditure of Community Services Block Grant

funds.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1007. Program development by grantees.**

Grantees of Community Services Block Grant funds shall develop specific programs and goals, consistent with the Community Services Block Grant Act, designed to provide the most effective solutions to the problems of poverty identified in their communities within the constraints of available funding, including projects related to:

- (1) employment;
- (2) education;
- (3) income management;
- (4) housing;
- (5) emergency assistance;
- (6) nutrition;
- (7) linkages and coordination with other programs;
- (8) health; and
- (9) self-sufficiency.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1008. Recognition of community action agencies.**

The office may:

- (1) recognize eligible organizations as community action agencies;
- (2) withdraw the recognition or terminate funding of a designated community action agency for cause, as established by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
- (3) change the boundaries and the number of recognized community action agencies, provided that the governing board of each affected community action agency concurs in the action.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1009. Qualified Emergency Food Agencies Fund -- Expenditure of revenues.**

- (1) As used in this section:
  - (a) "Association of governments" means the following created under the authority of Title 11, Chapter 13, Interlocal Cooperation Act:
    - (i) an association of governments; or
    - (ii) a regional council that acts as an association of governments.
  - (b) "Food and food ingredients" is as defined in Section 59-12-102.
  - (c) "Pounds of food donated" means the aggregate number of pounds of food and food ingredients that are donated:
    - (i) to a qualified emergency food agency; and
    - (ii) by a person, other than an organization that as part of its activities operates a

program that has as the program's primary purpose to:

(A) warehouse and distribute food to other agencies and organizations providing food and food ingredients to low-income persons; or

(B) provide food and food ingredients directly to low-income persons.

(d) "Qualified emergency food agency" means an organization that:

(i) is:

(A) exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(B) an association of governments; or

(C) a food pantry operated by a municipality located within the state;

(ii) as part of its activities operates a program that has as the program's primary purpose to:

(A) warehouse and distribute food to other agencies and organizations providing food and food ingredients to low-income persons; or

(B) provide food and food ingredients directly to low-income persons; and

(iii) the office determines to be a qualified emergency food agency.

(2) There is created an expendable special revenue fund known as the Qualified Emergency Food Agencies Fund.

(3) (a) The Qualified Emergency Food Agencies Fund shall be funded by the sales and use tax revenues described in:

(i) Section 59-12-103;

(ii) Section 59-12-204; and

(iii) Section 59-12-1102.

(b) Any interest earned on the Qualified Emergency Food Agencies Fund shall be deposited into the General Fund.

(4) The office shall for a fiscal year distribute money deposited into the Qualified Emergency Food Agencies Fund to qualified emergency food agencies within the state as provided in this section.

(5) A qualified emergency food agency shall file an application with the office before the qualified emergency food agency may receive a distribution under this section.

(6) Except as provided in Subsection (7), the office shall for a fiscal year distribute to a qualified emergency food agency an amount equal to the product of:

(a) the pounds of food donated to the qualified emergency food agency during that fiscal year; and

(b) 12 cents.

(7) If the money deposited into the Qualified Emergency Food Agencies Fund is insufficient to make the distributions required by Subsection (6), the office shall make distributions to qualified emergency food agencies in the order that the office receives applications from the qualified emergency food agencies until all of the money deposited into the Qualified Emergency Food Agencies Fund for the fiscal year is expended.

(8) A qualified emergency food agency may expend a distribution received in accordance with this section only for a purpose related to:

(a) warehousing and distributing food and food ingredients to other agencies and organizations providing food and food ingredients to low-income persons; or

- (b) providing food and food ingredients directly to low-income persons.
- (9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Housing and Community Development Division may make rules providing procedures for implementing the distributions required by this section, including:
  - (a) standards for determining and verifying the amount of a distribution that a qualified emergency food agency may receive;
  - (b) procedures for a qualified emergency food agency to apply for a distribution, including the frequency with which a qualified emergency food agency may apply for a distribution; and
  - (c) consistent with Subsection (1)(d), determining whether an entity is a qualified emergency food agency.

Amended by Chapter 400, 2013 General Session

**35A-8-1101. Title.**

This part is known as the "Methamphetamine Housing Reconstruction and Rehabilitation Account Act."

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1102. Definitions.**

As used in this part:

- (1) "Account" means the Methamphetamine Housing Reconstruction and Rehabilitation Account created in Section 35A-8-1103.
- (2) "Contaminated by methamphetamine" means that a residence is:
  - (a) polluted by hazardous materials as a result of the use, production, or presence of methamphetamine in excess of decontamination standards adopted by the Department of Health under Section 26-51-201; and
  - (b) placed on a contamination list by a local health department in accordance with Section 19-6-903.
- (3) "Qualified housing organization" means an affiliate located in this state of an organization if that organization:
  - (a) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;
  - (b) operates on a worldwide basis;
  - (c) has the primary purposes of:
    - (i) constructing, reconstructing, and rehabilitating residences that are:
      - (A) sold to low-income persons selected by the organization in accordance with any rules the division makes as authorized by Section 35A-8-1103; and
      - (B) financed with loans that are not subject to interest as determined by the organization in accordance with any rules the division makes as authorized by Section 35A-8-1103; and
    - (ii) purchasing property upon which residences described in Subsection (3)(c)(i) are constructed, reconstructed, or rehabilitated;
  - (d) expends a portion of the repayment on the loans described in Subsection (3)(c)(i)(B) to finance:

- (i) the construction, reconstruction, and rehabilitation of residences described in Subsection (3)(c)(i); and
- (ii) the purchase of property upon which residences described in Subsection (3)(c)(i) are constructed, reconstructed, or rehabilitated; and
- (e) has built more than 250,000 residences in total.
- (4) (a) "Residence" means a single-family residence.
- (b) "Residence" includes:
  - (i) a condominium;
  - (ii) a garage;
  - (iii) real property appurtenant to a residence:
    - (A) as determined by the division in accordance with any rules the division makes as authorized by Section 35A-8-1103; and
    - (B) if that real property is contaminated by methamphetamine;
  - (iv) a shed; or
  - (v) a town home.
- (c) "Residence" does not include:
  - (i) an apartment or other rental unit as determined by the division in accordance with any rules the division makes as authorized by Section 35A-8-1103; or
  - (ii) an outbuilding except for a garage or shed.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1103. Methamphetamine Housing Reconstruction and Rehabilitation Account -- Creation -- Interest -- Use of contributions and interest.**

- (1) There is created within the General Fund a restricted account known as the Methamphetamine Housing Reconstruction and Rehabilitation Account.
- (2) The account shall be funded by:
  - (a) contributions deposited into the account in accordance with Section 59-10-1314; and
  - (b) interest described in Subsection (3).
- (3) (a) The account shall earn interest.
- (b) Interest earned on the account shall be deposited into the account.
- (4) (a) The division shall distribute contributions and interest deposited into the account to one or more qualified housing organizations.
  - (b) (i) Subject to Subsection (4)(b)(ii), a qualified housing organization that receives a distribution from the division in accordance with Subsection (4)(a) shall expend the distribution to:
    - (A) reconstruct or rehabilitate one or more residences that are:
      - (I) sold to low-income persons selected by the qualified housing organization in accordance with any rules the division makes as authorized by this section; and
      - (II) financed with loans that are not subject to interest as determined by the qualified housing organization in accordance with any rules the division makes as authorized by this section; or
    - (B) purchase property upon which a residence described in Subsection (4)(b)(i)(A) is reconstructed or rehabilitated.
  - (ii) A qualified housing organization may not expend a distribution the qualified

housing organization receives in accordance with this Subsection (4) for any administrative cost relating to an expenditure authorized by Subsection (4)(b)(i).

(5) (a) In accordance with any rules the division makes as authorized under Subsection (6)(c), a qualified housing organization may apply to the division to receive a distribution under Subsection (4).

(b) A qualified housing organization may apply to the division to receive a distribution under Subsection (4) by filing an application with the division:

- (i) on or before November 1; and
- (ii) on a form provided by the division.

(c) The application:

(i) shall include information required by the division establishing that the qualified housing organization owns each residence with respect to which the qualified housing organization plans to expend a distribution under Subsection (4);

(ii) shall include information required by the division establishing the qualified housing organization's plan to expend the distribution for a purpose described in Subsection (4)(b)(i);

(iii) shall include information required by the division establishing that the qualified housing organization's plan to expend the distribution meets conditions established in accordance with Title 19, Chapter 6, Part 9, Illegal Drug Operations Site Reporting and Decontamination Act, for a local health department to remove the residence from the local health department's decontamination list; and

(iv) may include other information the division requires by rule.

(d) The division shall determine on or before the November 30 immediately following the November 1 described in Subsection (5)(b)(i) whether a qualified housing organization's application to the division meets the requirements of Subsection (5)(c).

(e) (i) The division shall distribute money credited to the account to each qualified housing organization that meets the requirements of Subsection (5)(c) as determined by the division:

(A) on or before the December 31 immediately following the November 1 described in Subsection (5)(b)(i); and

(B) in accordance with this Subsection (5)(e).

(ii) The division shall determine:

(A) the population of the county in which a qualified housing organization that meets the requirements of Subsection (5)(c) is headquartered; and

(B) the total population of all of the counties in which the qualified housing organizations that meet the requirements of Subsection (5)(c) are headquartered.

(iii) Except as provided in Subsection (5)(e)(iv), the division shall determine a qualified housing organization's distribution by making the following calculation:

(A) calculating a percentage determined by dividing the population of the county in which the qualified housing organization that meets the requirements of Subsection (5)(c) is headquartered by the population calculated under Subsection (5)(e)(ii)(B); and

(B) multiplying the percentage determined under Subsection (5)(e)(iii)(A) by the account balance.

(iv) If two or more qualified housing organizations that meet the requirements of Subsection (5)(c) as determined by the division are headquartered within one county, the division shall determine each qualified housing organization's distribution by:



(A) making the calculation required by Subsection (5)(e)(iii); and  
(B) dividing the amount calculated under Subsection (5)(e)(iii) by the number of qualified housing organizations that meet the requirements of Subsection (5)(c) as determined by the division that are headquartered within the county.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:

- (a) to define what constitutes:
  - (i) a low-income person;
  - (ii) a loan that is not subject to interest; and
  - (iii) an apartment or other rental unit;
- (b) for determining the circumstances under which real property is appurtenant to a residence;
- (c) prescribing information a qualified housing organization is required to include with an application under Subsection (5);
- (d) for purposes of Subsection (5)(e), for determining the population of a county; and
- (e) for determining the county in which a qualified housing organization is headquartered.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1201. Creation and administration.**

(1) There is created an enterprise fund known as the "State Small Business Credit Initiative Program Fund" administered by the director of the division or the director's designee.

(2) The division is the administrator of the fund.

(3) Revenues deposited into the fund shall consist of:

- (a) grants, pay backs, bonuses, entitlements, and other money received from the federal government to implement the State Small Business Credit Initiative; and
- (b) transfers, grants, gifts, bequests, and other money made available from any source to implement this part.

(4) (a) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(b) Interest and other earnings derived from the fund money shall be deposited in the fund.

(5) The division may use fund money for administration of the fund, but not to exceed 4% of the annual receipts to the fund.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1202. Distribution of fund money.**

(1) (a) The director shall make loans and loan guarantees from the fund for the Small Business Credit Initiative created under the federal government's Small Business Jobs Act of 2010, to use federal money for programs that leverage private lending to help finance small businesses and manufacturers that are creditworthy but not receiving the loans needed to expand and create jobs.

(b) In making loans and loan guarantees under this part, the director shall give due consideration to small businesses in underserved communities throughout the state that have been deeply impacted by recession and not seen a comparable resurgence in their economies.

(2) The director shall distribute federal money in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.

(3) The director may, with the approval of the executive director of the department:

(a) enact rules to establish procedures for the loan and loan guarantee process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Renumbered and Amended by Chapter 212, 2012 General Session  
Amended by Chapter 347, 2012 General Session

**35A-8-1203. Annual accounting.**

(1) The director shall monitor the activities of recipients of the loans and loan guarantees issued under this part on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the director under this part.

(2) An entity receiving a loan or loan guarantee under this part shall provide the director with an annual accounting of how the money it received from the fund was spent.

(3) The director shall provide the following information to the department for inclusion in the department's annual written report described in Section 35A-1-109:

(a) an accounting of expenditures made from the fund; and

(b) an evaluation of the effectiveness of the loan and loan guarantee program.

Amended by Chapter 371, 2014 General Session

**35A-8-1301. Creation and administration.**

(1) There is created an expendable special revenue fund known as the "Intermountain Weatherization Training Fund."

(2) The Intermountain Weatherization Training Fund shall consist of:

(a) private contributions;

(b) donations or grants from public or private entities;

(c) fees;

(d) any money appropriated by the Legislature; and

(e) interest and earnings on fund money.

(3) The division shall authorize the expenditure of fund money to the Weatherization Training Center for the administration, operation, maintenance, and support of the center subject to:

(a) money available in the fund; and

(b) rules established under Subsection (5).

(4) Administrative costs of the Intermountain Weatherization Fund shall be paid from the fund.

(5) The division shall:

(a) administer the money deposited in the Intermountain Weatherization Training Fund;

(b) distribute the money in the Intermountain Weatherization Training Fund in accordance with Subsection (5)(c); and

(c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing:

(i) the procedures for awarding fund money; and

(ii) the procedure for the Weatherization Training Center to apply for money from the Intermountain Weatherization Training Fund.

Amended by Chapter 400, 2013 General Session

**35A-8-1401. Title.**

This part is known as the "Home Energy Assistance Target (HEAT) Program Act."

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1402. Assistance to low-income persons -- Contracts -- Administration.**

(1) (a) The department may assist certain low-income families and individuals in the payment of home energy costs.

(b) Assistance given under this part shall be made available to households throughout the state, irrespective of the source of household energy supply.

(2) The department may contract with one or more public or private agencies to distribute and administer these funds subject to the criteria established by the department.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1403. Eligibility criteria.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules establishing eligibility criteria for recipients of assistance under this part.

(2) A recipient of assistance under this part shall demonstrate:

(a) that the recipient's family, household, or individual income is 150% of the federal poverty level or less;

(b) that the recipient is responsible for paying the recipient's home energy costs; and

(c) compliance with any rules established by the department under this section.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1404. Guidelines for private contributions -- Assuring equitable distribution.**

The department shall coordinate with private contributors to home energy assistance programs, such as REACH and Lend-a-Hand, to help assure equitable statewide distribution of assistance to eligible customers of all vendors of energy services.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1405. Payment method.**

Direct payments for home energy costs shall be made jointly to the responsible householder and to the vendor of energy services to whom the family or individual served owes a payment except in certain cases, as established by rule by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, where payments may be made directly to the responsible householder.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1501. Moratorium on involuntary termination for nonpayment of utility bills -- Eligibility criteria -- Department to establish and certify.**

(1) (a) The department shall establish a program for a seasonal moratorium for involuntary termination for nonpayment by residential customers of essential utility bills.

(b) An essential utility is a utility regulated by the Public Service Commission under Title 54, Public Utilities, which is in the business of the retail distribution of electricity or natural gas.

(c) A residential customer is a customer defined as in a residential class by the Public Service Commission.

(2) A residential customer shall meet the following criteria to qualify for the program:

(a) gross household income is less than 125% of the federal poverty level or the household has suffered a medical or other emergency, loss of employment, or is experiencing other circumstances which have resulted in a substantial loss of income;

(b) the customer has made application to public and private energy assistance programs;

(c) the customer is willing to make a good faith effort to pay these utility bills on a consistent basis; and

(d) any additional information required by the department.

(3) (a) A residential customer may file with a local department office an affidavit attesting eligibility under the criteria in Subsection (2).

(b) The department shall certify that the customer has met the eligibility requirements and forward a copy of the affidavit to the effected utility.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1502. Contesting a customer's eligibility -- Department to determine case.**

When a utility contests the eligibility of any residential customer to participate in the program, the executive director or the executive director's designee shall act as an administrative law judge to make a determination on the case.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1503. Premoratorium customers' eligibility for moratorium -- Criteria.**

A residential customer that has had service of an essential utility discontinued for nonpayment prior to the time the moratorium takes effect shall have service restored and continued during the period of the moratorium if the customer meets the requirements of Section 35A-8-1501 and the customer has entered into a deferred payment agreement with the utility as to arrearages.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1504. Effective period of moratorium -- Extension by rule.**

- (1) The moratorium shall be in effect from November 15 to March 15 of each year.
- (2) The department may, by rule, begin the moratorium at an earlier date or extend it to a later date when severe weather conditions warrant that action.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1601. Definitions.**

As used in this chapter:

- (1) "Board" means the Uintah Basin Revitalization Fund Board.
- (2) "Capital projects" means expenditures for land, improvements on the land, and equipment intended to have long-term beneficial use.
- (3) "County" means:
  - (a) Duchesne County; or
  - (b) Uintah County.
- (4) "Division" means the Housing and Community Development Division.
- (5) "Revitalization Fund" means the Uintah Basin Revitalization Fund.
- (6) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1602. Legislative intent -- Uintah Basin Revitalization Fund -- Deposits and contents.**

(1) In order to maximize the long-term benefit of severance taxes derived from lands held in trust by the United States for the Tribe and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of the Uintah Basin, and in order to promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations

engaged in the development of oil and gas interests held in trust for the Tribe and its members, there is created an expendable special revenue fund entitled the "Uintah Basin Revitalization Fund."

(2) The fund consists of all money deposited to the Revitalization Fund under this part and Section 59-5-116.

(3) (a) The Revitalization Fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

Amended by Chapter 400, 2013 General Session

**35A-8-1603. Uintah Basin Revitalization Fund Board created -- Members -- Terms -- Chair -- Quorum -- Expenses.**

(1) There is created within the division the Revitalization Board composed of five members as follows:

(a) the governor or his designee;

(b) a Uintah County commissioner;

(c) a Duchesne County commissioner; and

(d) two representatives of the Business Committee of the Tribe.

(2) The terms of office for the members of the board shall run concurrently with the terms of office for the governor, commissioners, and Business Committee of the Tribe.

(3) The governor, or his designee, shall be the chair of the board.

(4) Four board members are a quorum.

(5) All decisions of the board require four affirmative votes.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1604. Duties -- Loans -- Interest.**

(1) The board shall:

(a) subject to the other provisions of this chapter and an agreement entered into under Title 11, Chapter 13, Interlocal Cooperation Act, among the state, the counties, and the Tribe, make recommendations to the division for grants and loans from the revitalization fund to county agencies and the Tribe that are or may be socially or economically impacted, directly or indirectly, by mineral resource development;

(b) establish procedures for application for and award of grants and loans including:

(i) eligibility criteria;

(ii) subject to Subsection 35A-8-1606(2)(b), a preference that capital projects, including subsidized and low-income housing, and other one-time need projects and programs have priority over other projects;

- (iii) a preference for projects and programs that are associated with the geographic area where the oil and gas were produced; and
  - (iv) coordination of projects and programs with other projects and programs funded by federal, state, and local governmental entities;
  - (c) determine the order in which projects will be funded;
  - (d) allocate the amount to be distributed from the revitalization fund for grants or loans to each county and the Tribe during a fiscal year as follows:
    - (i) up to and including the first \$3,000,000 that is approved for distribution by the board during a fiscal year, the board may allocate the amount in accordance with the interlocal agreement described by Subsection (1)(a), except that the board may not allocate less than 75% of the amount under the interlocal agreement to the Tribe unless the interlocal agreement is further modified by statute; and
    - (ii) beginning with fiscal year 2007-08, any amount approved for distribution by the board during that fiscal year in excess of \$3,000,000 shall be allocated equally amongst each county and the Tribe so that each receives 1/3 of the amount approved for distribution by the board in excess of \$3,000,000;
  - (e) qualify for, accept, and administer grants, gifts, loans, or other funds from the federal government and from other sources, public or private; and
  - (f) perform other duties assigned to it under the interlocal agreement described in Subsection (1)(a) that are not prohibited by law or otherwise modified by this chapter.
- (2) The board shall ensure that loan repayments and interest are deposited into the revitalization fund.
- (3) The interlocal agreement described in Subsection (1)(a) shall be consistent with the following statutes, including any subsequent amendments to those statutes:
- (a) this chapter;
  - (b) Title 11, Chapter 13, Interlocal Cooperation Act;
  - (c) Section 59-5-116; and
  - (d) any other applicable provision of this Utah Code.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1605. Powers.**

- (1) The board may:
  - (a) appoint a hearing examiner or administrative law judge with authority to conduct any hearings, make determinations, and enter appropriate findings of facts, conclusions of law, and orders under authority of the Interlocal Cooperation Act; and
  - (b) make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if necessary to perform its responsibilities.
- (2) The board shall:
  - (a) be subject to the procedures and requirements under Title 52, Chapter 4, Open and Public Meetings Act; and
  - (b) be subject to the procedures and requirements under Title 51, Chapter 7, State Money Management Act.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1606. Eligibility for assistance -- Applications -- Review by board -- Terms -- Security.**

(1) Counties or the Tribe that wish to receive loans or grants from the board shall submit formal applications to the board containing the information required by the board.

(2) The board may not fund:

(a) start-up or operational costs of private business ventures; and

(b) general operating budgets of the counties or the Tribe, except that the Tribe may use a grant or loan to fund costs associated with the management and administration of energy or mineral development on:

(i) lands held in trust by the United States for the Tribe and its members; or

(ii) lands owned by the Tribe.

(3) (a) The board shall review each application for a loan or grant before approving it.

(b) The board may approve loan or grant applications subject to the applicant's compliance with certain conditions established by the board.

(c) The board shall:

(i) ensure that each loan specifies the terms for repayment; and

(ii) secure the loans by proceeds from any general obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate subdivision.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1607. Division to distribute money -- Annual report -- Administration costs.**

(1) The division shall distribute loan and grant money if the loan or grant is approved by the board.

(2) The division shall provide an annual report to the department concerning the number and type of loans and grants made as well as a list of recipients of this assistance for inclusion in the department's annual written report described in Section 35A-1-109.

(3) The division, with board approval, may use fund money for the administration of the fund, but this amount may not exceed 2% of the annual receipts to the fund.

Amended by Chapter 371, 2014 General Session

**35A-8-1608. Deposits into fund.**

(1) Money required to be deposited into the Uintah Basin Revitalization Fund under Section 59-5-116 shall be deposited into the Uintah Basin Revitalization Fund if a business or activity fee or tax based on gross receipts has not been imposed by a county or the Tribe on oil and gas activities.

(2) (a) Nothing in this section prohibits a county from imposing a charge described in Subsection (1) with respect to any gathering, transmission, or local distribution pipeline in which the county owns an interest.

(b) Nothing in this section prohibits the Tribe from imposing a charge described



in Subsection (1) with respect to any gathering, transmission, or local distribution pipeline in which the Tribe owns an interest.

Amended by Chapter 241, 2014 General Session

**35A-8-1701. Title.**

This chapter is known as the "Navajo Revitalization Fund Act."

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1702. Definitions.**

As used in this chapter:

- (1) "Board" means the Navajo Revitalization Fund Board.
- (2) "Capital project" means an expenditure for land, improvements on the land, or equipment intended to have long-term beneficial use.
- (3) "Division" means the Housing and Community Development Division.
- (4) "Eligible entity" means:
  - (a) the Navajo Nation;
  - (b) a department or division of the Navajo Nation;
  - (c) a Utah Navajo Chapter;
  - (d) the Navajo Utah Commission;
  - (e) an agency of the state or a political subdivision of the state; or
  - (f) a nonprofit corporation.
- (5) "Navajo Utah Commission" means the commission created by Resolution IGRJN-134-92 of the Intergovernmental Relations Committee of the Navajo Nation Council.
- (6) "Revitalization fund" means the Navajo Revitalization Fund.
- (7) "Utah Navajo Chapter" means any of the following chapters of the Navajo Nation:
  - (a) Aneth Chapter;
  - (b) Dennehotso Chapter;
  - (c) Mexican Water Chapter;
  - (d) Navajo Mountain Chapter;
  - (e) Oljato Chapter;
  - (f) Red Mesa Chapter; and
  - (g) Teec Nos Pos Chapter.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1703. Legislative intent.**

- (1) The purpose of this chapter is to:
  - (a) maximize the long-term benefit of state severance taxes derived from lands in Utah held in trust by the United States for the Navajo Nation and its members by fostering funding mechanisms that will, consistent with sound financial practices, result in the greatest use of financial resources for the greatest number of citizens of San Juan County; and

(b) promote cooperation and coordination between the state, its political subdivisions, Indian tribes, and individuals, firms, and business organizations engaged in the development of oil and gas interests in Utah held in trust by the United States for the Navajo Nation and its members.

(2) Notwithstanding Subsection (1), the fund:

(a) consists of state severance tax money to be spent at the discretion of the state; and

(b) does not constitute a trust fund.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1704. Navajo Revitalization Fund.**

(1) (a) There is created an expendable special revenue fund called the "Navajo Revitalization Fund."

(b) The revitalization fund shall consist of:

(i) money deposited to the revitalization fund under this chapter;

(ii) money deposited to the revitalization fund under Section 59-5-119; and

(iii) any loan repayment or interest on a loan issued under this chapter.

(2) (a) The revitalization fund shall earn interest.

(b) The interest earned on revitalization fund money shall be deposited into the fund.

(3) Beginning for fiscal year 2010-11, the division may use revitalization fund money for the administration of the revitalization fund, but this amount may not exceed 4% of the annual receipts to the revitalization fund.

Amended by Chapter 400, 2013 General Session

**35A-8-1705. Navajo Revitalization Fund Board.**

(1) There is created within the division the Navajo Revitalization Board composed of five members as follows:

(a) the governor or the governor's designee;

(b) the two members of the San Juan County commission whose districts include portions of the Navajo Reservation;

(c) the chair of the Navajo Utah Commission or a member of the commission designated by the chair of the Navajo Utah Commission; and

(d) beginning July 1, 2008, a president of a Utah Navajo Chapter or an individual designated by the president under an annual rotation system of Utah Navajo Chapters as follows:

(i) the president of a Utah Navajo Chapter shall serve for one year;

(ii) the Utah Navajo Chapter is rotated in alphabetical order as provided in Subsection 35A-8-1702(7), except that the rotation will begin on July 1, 2008, with the Dennehotso Chapter;

(iii) if the president of a Utah Navajo Chapter under Subsection (1)(d)(ii) is the same individual as the individual listed in Subsection (1)(c):

(A) that Utah Navajo Chapter is skipped as part of that rotation; and

(B) the president of the next Utah Navajo Chapter in the alphabetical rotation

shall serve on the board.

(2) The term of office for a member of the board described in Subsections (1)(a) through (c) runs concurrently with the term of office for the governor, county commissioner, or member of the Navajo Utah Commission.

(3) (a) The governor, or the governor's designee, is the chair of the board.

(b) The chair shall call necessary meetings.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The per diem and travel expenses permitted under Subsection (4) may be included as costs of administration of the revitalization fund.

(6) Four board members are a quorum.

(7) An affirmative vote of each member of the board present at a meeting when a quorum is present is required for a board decision related to money in or disbursed from the revitalization fund.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1706. Powers -- Duties.**

(1) The board shall:

(a) direct the division regarding grants and loans from the revitalization fund to eligible entities to serve persons that are or may be socially or economically impacted, directly or indirectly, by mineral resource development;

(b) establish procedures for application for an award of grants and loans including eligibility criteria;

(c) coordinate projects and programs with other projects and programs funded by federal, state, and local government entities;

(d) determine the order in which projects will be funded; and

(e) be subject to the procedures and requirements under Title 52, Chapter 4, Open and Public Meetings Act.

(2) The board may:

(a) qualify for, accept, and administer grants, gifts, loans, or other funds from the federal government and from other sources, public or private; and

(b) make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if necessary to perform its responsibilities.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1707. Revitalization fund administered by board -- Eligibility for assistance -- Review by board -- Restrictions on loans and grants -- Division to distribute money.**

(1) (a) If an eligible entity wishes to receive a loan or grant from the board, the eligible entity shall file an application with the board that contains the information

required by the board.

(b) The board shall review an application for a loan or grant filed under Subsection (1)(a) before approving the loan or grant.

(c) The board may approve a loan or grant application subject to the applicant's compliance with the one or more conditions established by the board.

(2) In determining whether an eligible entity may receive a loan or grant, the board shall give priority to:

(a) a capital project or infrastructure, including:

(i) electrical power;

(ii) water; and

(iii) a one time need project;

(b) a housing project that consists of:

(i) the purchase of new housing;

(ii) the construction of new housing; or

(iii) a significant remodeling of existing housing; or

(c) a matching educational endowment that:

(i) promotes economic development within the Utah portion of the Navajo Reservation;

(ii) promotes the preservation of Navajo culture, history, and language; or

(iii) supports a postsecondary educational opportunity for a Navajo student enrolled in a course or program taught within the Utah portion of the Navajo Reservation.

(3) A loan or grant issued under this chapter may not fund:

(a) a start-up or operational cost of a private business venture;

(b) a general operating budget of an eligible entity; or

(c) a project that will operate or be located outside of the Navajo Reservation in San Juan County, Utah, except for an educational endowment approved by the board under Subsection (2)(c).

(4) (a) The board may not approve a loan unless the loan:

(i) specifies the terms for repayment; and

(ii) is secured by proceeds from a general obligation, special assessment, or revenue bond, note, or other obligation.

(b) The division shall deposit a loan repayment or interest on a loan issued under this chapter into the revitalization fund.

(5) The board shall give a priority to a loan or grant if the loan or grant includes matching money or in-kind services from:

(a) the Navajo Nation;

(b) San Juan County;

(c) the state;

(d) the federal government;

(e) a Utah Navajo Chapter; or

(f) other private or public organization.

(6) The division shall distribute loan and grant money:

(a) if the loan or grant is approved by the board;

(b) in accordance with the instructions of the board, except that the board may not instruct that money be distributed in a manner:

- (i) inconsistent with this chapter; or
- (ii) in violation of a rule or procedure of the department; and
- (c) in the case of a loan, in accordance with Section 63A-3-205.

Renumbered and Amended by Chapter 212, 2012 General Session

**35A-8-1708. Annual report.**

The division shall provide an annual report to the department concerning the number and type of loans and grants made as well as a list of recipients of this assistance for inclusion in the department's annual written report described in Section 35A-1-109.

Amended by Chapter 371, 2014 General Session

**35A-8-1801. Transitional Housing and Community Development Advisory Council -- Membership -- Duties.**

(1) There is created the Transitional Housing and Community Development Advisory Council within the Department of Workforce Services consisting of the following members:

- (a) the executive director of the Department of Workforce Services or the executive director's designee, who shall serve as chair of the advisory council;
- (b) the director of the Housing and Community Development Division of the Department of Workforce Services;
- (c) a representative from the governor's office designated and appointed by the governor;
- (d) two representatives of entities that use or allocate funds distributed by the Housing and Community Development Division, designated and appointed by the director of the Housing and Community Development Division; and
- (e) the executive director, or the executive director's designee, of the:
  - (i) Bear River Association of Governments;
  - (ii) Five County Association of Governments;
  - (iii) Mountainland Association of Governments;
  - (iv) Six County Association of Governments;
  - (v) Southeastern Utah Association of Governments;
  - (vi) Uintah Basin Association of Governments;
  - (vii) Wasatch Front Regional Council;
  - (viii) Community Action Partnership of Utah;
  - (ix) Salt Lake Community Action Program; and
  - (x) Utah Housing Coalition.

(2) (a) Except as provided in Subsection (2)(b), the advisory council shall meet at least once every three months and may meet more frequently as needed.

(b) The advisory council may meet less than once every three months if the chair, after polling the members, determines that a meeting is not needed.

(c) The chair, or a majority of the advisory council, may call a meeting of the advisory council.

(d) A majority of the membership is a quorum for conducting advisory council

business and a majority vote of the quorum present is required for an action to be taken by the advisory council.

(e) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (i) Section 63A-3-106;
- (ii) Section 63A-3-107; and
- (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(f) The Housing and Community Development Division shall provide necessary administrative and staff support services to the advisory council.

(3) The advisory council shall advise and counsel the Department of Workforce Services and the department's Housing and Community Development Division in formulating rules, protocols, and policies to:

(a) successfully transition the division from the Department of Community and Culture;

(b) maintain consistency in providing services to, and cooperating with, qualifying interested parties, including individuals, groups, political subdivisions, and community action agencies, which properly participated in division services under the Department of Community and Culture; and

(c) inform and advise interested parties, including individuals, groups, political subdivisions, and community action agencies regarding:

- (i) the division's transition to the Department of Workforce Services; and
- (ii) each significant change, or contemplated change, in the delivery of division services.

(4) The Housing and Community Development Division shall present to the advisory council for its advice and counsel, each significant proposed change to the delivery of services by the division.

Enacted by Chapter 212, 2012 General Session

**35A-8-1802. Interim study.**

During the 2012 interim, the Economic Development and Workforce Services Interim Committee shall study and make recommendations to the Legislature regarding:

- (1) the effectiveness and progress of the Housing and Community Development's transition to the Department of Workforce Services;
- (2) housing needs in the state of Utah; and
- (3) opportunities for further consolidation of state programs and policies regarding housing.

Enacted by Chapter 212, 2012 General Session

**35A-8-1901. Title.**

This part is known as the "Youth Development Organization Restricted Account Act."

Enacted by Chapter 338, 2013 General Session

### **35A-8-1902. Definitions.**

As used in this part:

(1) "Account" means the Youth Development Organization Restricted Account created in Section 35A-8-1903.

(2) "Qualified youth development organization council" means a youth development organization council in the state that the division determines to be eligible to receive a distribution under Section 35A-8-1904.

(3) "Youth development organization" means an organization that:

(a) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(b) has more than 180,000 youth members within the state;

(c) has as its mission to prepare youth members to make ethical and moral choices over their lifetimes; and

(d) accomplishes the mission described in Subsection (3)(c) by building character, teaching citizenship, and developing personal fitness.

(4) "Youth development organization council" means a council that:

(a) is chartered by a youth development organization;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) has more than 35,000 youth members within the state;

(d) covers a specified geographic area within the state;

(e) has as its mission to prepare youth members to make ethical and moral choices over their lifetimes; and

(f) accomplishes the mission described in Subsection (4)(e) by building character, teaching citizenship, and developing personal fitness.

(5) "Youth member" means a person who:

(a) has a valid membership in a youth development organization;

(b) is affiliated with a particular youth development organization council; and

(c) is 20 years of age or younger.

Enacted by Chapter 338, 2013 General Session

### **35A-8-1903. Youth Development Organization Restricted Account -- Creation -- Interest.**

(1) There is created within the General Fund a restricted account known as the "Youth Development Organization Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 59-10-1316;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest described in Subsection (3).

(3) (a) The account shall earn interest.

(b) Interest earned on the account shall be deposited into the account.

(4) The division shall distribute money appropriated by the Legislature to the division from the restricted account as provided in Section 35A-8-1904.

Enacted by Chapter 338, 2013 General Session

**35A-8-1904. Division to distribute amounts deposited into Youth Development Organization Restricted Account -- Procedures for distribution.**

(1) Subject to the other provisions of this section, the division shall distribute amounts deposited into the Youth Development Organization Restricted Account in accordance with Section 35A-8-1903 to one or more qualified youth development organization councils in the state.

(2) A qualified youth development organization council that receives a distribution from the division under this section shall expend the distribution only to accomplish the mission of the qualified youth development organization council described in Subsection 35A-8-1903(4).

(3) An organization that seeks to receive a distribution from the division under this section shall, on or before May 1 of each year, file an application with the division:

- (a) on a form prescribed by the division;
- (b) that contains information required by the division to establish that the organization is a youth development organization council in the state; and
- (c) that contains any other information prescribed by the commission.

(4) (a) The division shall, on or before June 1 of each year, determine whether an organization that files an application with the division under Subsection (3) is a youth development organization council in the state.

(b) (i) If the division determines that an organization that files an application with the division under Subsection (3) is a youth development organization council, the division shall, on or before June 15 of each year, issue the organization a certificate stating that the organization is a qualified youth development organization council.

(ii) If the division determines that an organization that files an application with the division under Subsection (3) is not a youth development organization council, the division shall provide the organization written notice stating the reasons for its determination.

(5) On or before July 1 of each year, the division shall make the distributions required by this section to each qualified youth development organization council as follows:

(a) the division shall, for each qualified youth development organization council, calculate a percentage:

- (i) the numerator of which is the youth membership of the qualified youth development organization council; and
- (ii) the denominator of which is the total youth membership of the qualified youth development organization councils;

(b) the division shall, for each qualified youth development organization council, calculate an amount by multiplying the percentage the division calculates under Subsection (5)(a) by the lesser of:

- (i) the amount the Legislature appropriates to the division from the account for the fiscal year; or
- (ii) the balance in the account as of June 1 of that year; and
- (c) the division shall distribute the amount the division calculates under



Subsection (5)(b) to each qualified youth development organization council.

Enacted by Chapter 338, 2013 General Session

**35A-8-2001. Title.**

This part is known as the "Youth Character Organization Restricted Account Act."

Enacted by Chapter 338, 2013 General Session

**35A-8-2002. Definitions.**

As used in this part:

(1) "Account" means the Youth Character Organization Restricted Account created in Section 35A-8-2003.

(2) "Qualified youth character organization council" means a youth character organization council in the state that the division determines to be eligible to receive a distribution under Section 35A-8-2004.

(3) "Youth character organization" means an organization that is chartered under 36 U.S.C. Sec. 80301.

(4) "Youth character organization council" means a council that:

- (a) is chartered by a youth character organization;
- (b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and
- (c) covers a specified geographic area that includes a geographic area within the state.

(5) "Youth member" means a person who:

- (a) has a valid membership in a youth character organization;
- (b) is affiliated with a particular youth character organization council; and
- (c) is 18 years of age or younger.

Enacted by Chapter 338, 2013 General Session

**35A-8-2003. Youth Character Organization Restricted Account -- Creation -- Interest.**

(1) There is created within the General Fund a restricted account known as the "Youth Character Organization Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 59-10-1317;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) interest described in Subsection (3).

(3) (a) The account shall earn interest.

(b) Interest earned on the account shall be deposited into the account.

(4) The division shall distribute money appropriated by the Legislature to the division from the restricted account as provided in Section 35A-8-2004.

Enacted by Chapter 338, 2013 General Session

**35A-8-2004. Division to distribute amounts deposited into Youth Character Organization Restricted Account -- Procedures for distribution.**

(1) Subject to the other provisions of this section, the division shall distribute amounts deposited into the Youth Character Organization Restricted Account in accordance with Section 35A-8-2003 to one or more qualified youth character organization councils in the state.

(2) A qualified youth character organization that receives a distribution from the division under this section shall expend the distribution only to accomplish the purposes described in 36 U.S.C. Sec. 80302.

(3) An organization that seeks to receive a distribution from the division under this section shall, on or before May 1 of each year, file an application with the division:

- (a) on a form prescribed by the division;
- (b) that contains information required by the division to establish that the organization is a youth character organization council in the state; and
- (c) that contains any other information prescribed by the commission.

(4) (a) The division shall, on or before June 1 of each year, determine whether an organization that files an application with the division under Subsection (3) is a youth character organization council in the state.

(b) (i) If the division determines that an organization that files an application with the division under Subsection (3) is a youth character organization council, the division shall, on or before June 15 of each year, issue the organization a certificate stating that the organization is a qualified youth character organization council.

(ii) If the division determines that an organization that files an application with the division under Subsection (3) is not a youth character organization council, the division shall provide the organization written notice stating the reasons for its determination.

(5) On or before July 1 of each year, the division shall make the distributions required by this section to each qualified youth character organization council as follows:

(a) the division shall, for each qualified youth character organization council, calculate a percentage:

- (i) the numerator of which is the youth membership of the qualified youth character organization council; and
- (ii) the denominator of which is the total youth membership of the qualified youth character organization councils;

(b) the division shall, for each qualified youth character organization council, calculate an amount by multiplying the percentage the division calculates under Subsection (5)(a) by the lesser of:

- (i) the amount the Legislature appropriates to the division from the account for the fiscal year; or
- (ii) the balance in the account as of June 1 of that year; and
- (c) the division shall distribute the amount the division calculates under Subsection (5)(b) to each qualified youth character organization council.

Enacted by Chapter 338, 2013 General Session